

The Gazette of India

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No. 10] NEW DELHI, SATURDAY, MARCH 10, 1962/PHALGUNA 19, 1883

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 27th February, 1962 :—

Issue No.	No. and Date	Issued by	Subject.
86	S. O. 584, dated 21st February, 1962.	Election Commission India.	Appointment of Assistant Returning Officers to assist the Returning Officers for the Parliamentary Constituencies in the State of Andhra Pradesh.
87	S. O. 585, dated 21st February, 1962.	Do.	Appointment of Shri Radha Raman Goswami, Assistant Registrar of Co-operative Societies (Farming), Co-operative Directorate, to assist the Returning Officer for 19-Calcutta North-West Parliamentary Constituency.
88	S. O. 586, dated 22nd February, 1962.	Do.	Appointment of Assistant Returning Officers to assist the Returning Officer for the Parliamentary Constituency in the Union Territory of Delhi.
89	S. O. 587, dated 22nd February, 1962.	Do.	Amendment in Notification No. 434/MT/61 (1), dated the 1st January, 1962.
90	S. O. 588, dated 22nd February, 1962.	Do.	Appointment of Assistant Returning Officers to assist the Returning Officers for the Parliamentary Constituency in the State of Maharashtra.
91	S. O. 589, dated 23rd February, 1962.	Ministry of Commerce & Industry.	Amendments to the Bye-laws of the East India Cotton Association Ltd., Bombay.
92	S. O. 590, dated 23rd February, 1962.	Election Commission, India.	Amendments in Notification No. 434/10/61, dated 21st September, 1961.

Issue No.	No. and Date	Issued by	Subject
93	S. O. 591, dated 23rd February, 1962.	Ministry of Information & Broadcasting.	Approval of films specified therein.
94	S. O. 592, dated 25th February, 1962.	Election Commission, India.	Cancellation of Notification No. 434/MT/62 (1), dated the 21st February, 1962.
95	S. O. 593, dated 26th February, 1962.	Do.	Appointment of Assistant Returning Officers to assist the Returning Officer for the Parliamentary Constituency in the State of Assam.
96	S. O. 594, dated 26th February, 1962.	Ministry of Labour & Employment.	Prohibition to the continuance of the strike which is in existence in connection with the dispute between the employers specified in Schedule I thereto annexed and their workmen.
	S. O. 595, dated 26th February, 1962.	Do.	Constitution of an Industrial Tribunal with Doctor Mir Siadat Ali Khan as the Presiding Officer with headquarters at Hyderabad.
97	S. O. 596, dated 27th February, 1962.	Ministry of Commerce & Industry.	Amendments to the Bye-laws of the Rajdhani Grains and Jaggery Exchange Ltd., Delhi.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 28th February 1962

S.O. 675.—In pursuance of clause (3) of article 77 of the Constitution and of all other powers enabling him in this behalf, the President is pleased to make the following amendment in the Delegation of Financial Powers Rules, 1958 (published as S.O. 2614 in the Gazette of India dated the 20th December, 1958), namely:—

Amendment No. 110

In Schedule I to the Rules, under "K—Ministry of Irrigation and Power," insert the following:—

"3—Chief Engineer, Farakka Barrage Project"

(This amendment takes effect from the 2nd February, 1962.)

[No. F. 2(3)-EII(A)/62.]

New Delhi, the 3rd March 1962

S.O. 676.—In pursuance of clause (3) of article 77 of the Constitution and of all other powers enabling him in this behalf, the President is pleased to make the following amendment in the Delegation of Financial Powers Rules, 1958 (published as S.O. 2614 in the Gazette of India, dated the 20th December, 1958), namely:—

Amendment No. 111

In Schedule VII to the Rules, the existing entries relating to the powers of the "Heads of Departments" regarding write off of losses on account of "Deficiencies and depreciation in the value of stores included in the stock and other accounts" may be substituted by the following entries:—

Col. 1	Col. 2	Col. 3
Deficiencies and depreciation in the value of stores included in the stock and other accounts.	(i) Heads of Departments other than those mentioned below.	1,000.
	(ii) Director, Indian Veterinary Research Institute.	(a) Loss of crude and finished products subject to the limits prescribed from time to time. (b) Other cases—Rs. 1,000.
	(iii) Narcotics Commissioner.	(a) Loss of opium in vats or during manufacture subject to the limits prescribed from time to time. (b) Other cases Rs.—1,000.
	(iv) Director, Botanical Survey of India.	(a) Losses of cinchona bark due to dryage in storage upto Rs. 1,000 a year. (b) Other cases—Rs. 1,000.
	(v) Mint Masters—and General Manager, Silver Refinery, Calcutta.	(a) Full powers in the case of losses of bullion in the process of coinage, refining or melting. (b) Others cases—Rs. 1,000.
	(vi) Director General of Archaeology.	2,500."

[No. F. 12(72)-EII(A)/61.]

C. R. KRISHNAMURTHI, Dy. Secy.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 23rd day of February, 1962

ISSUE DEPARTMENT

Liabilities	Rs.	Rs.	Assets	Rs.	Rs.
Notes held in the Banking Department	25,81,97,000		A. Gold Coin and Bullion:—		
Notes in circulation	2027,41,61,000		(a) Held in India	117,76,03,000	
Total Notes issued		2053,23,58,000	(b) Held outside India		
			Foreign Securities	123,86,07,000	
			TOTAL OF A		241,62,10,000
			B. Rupee Coin		119,41,57,000
			Government of India Rupee Securities		1692,19,91,000
			Internal Bills of Exchange and other commercial paper		
TOTAL LIABILITIES		2053,23,58,000	TOTAL ASSETS		2053,23,58,000

Dated, the 28th day of February, 1962.

H. V. R. IENGAR,
Governor.

(No. F. 3(2)-BC/62.]

A. BAKSI,
Joint Secy.

(Department of Economic Affairs)

New Delhi, the 3rd March 1962

S.O. 678.—In pursuance of clause (a) of sub-section (1) and sub-section (4) of section 8 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government has appointed Shri P. C. Bhattacharyya as the Governor of the Reserve Bank of India for a term of five years with effect from the 1st March, 1962.

[No. F. 3(49)-BC/61.]

S.O. 679.—In pursuance of clause (a) of sub-section (1) and sub-section (4) of section 8 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government has appointed Shri D. G. Karve as a Deputy Governor of the Reserve Bank of India for a term of two years with effect from the 1st March, 1962.

[No. F. 3(12)-BC/62.]

A. BAKSI, Jt. Secy.

(Department of Economic Affairs)

New Delhi, the 5th March 1962

S.O. 680.—In exercise of the powers conferred by sub-section (4) of section 12 read with clause (b) of sub-section (1) of section 8 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government hereby nominates Shri Biren Mookerjee, a member of the Local Board, Eastern Area, as a Director of the Central Board of the Reserve Bank of India in the vacancy caused by the death of Shri B. P. Singh Roy.

[No. F. 3(71)BC/61.]

R. K. SESHADRI, Dy. Secy.

(Department of Revenue)

ESTATE DUTY

New Delhi, the 28th February 1962

S.O. 681.—It is hereby notified that the appointment of the undermentioned Valuers, whose names were included in the list of Valuers published under the notification of the Central Government No. 5/F. No. 5/10/59-ED, dated the 7th February, 1959 in Part II Section 3(ii) of the Gazette of India, dated the 14th February, 1959 as S.O. 322, has been renewed by the Central Government for a further period of three years with effect from the 7th February, 1962:—

I. ENGINEERS/SURVEYORS/ARCHITECTS

S. No.	Name	Address
1.	Shri Crawford, Pheroze D., G.D. (Arch.), F.I.I.A.	Advani Chambers, Sir P. Mehta Road, Fort, Bombay-1.
2.	Shri Gandhi, K. C., B.Sc., B.E. (Civil).	Jehangir Wadia Building, 1st Floor, 51, Mahatma Gandhi Road, Fort, Bombay.
3.	Shri Kothari, L. P., B.E., A.M.I.E., M.C.E. A.M.I.E.T.	Ranchod Nivas, Bhupendra Road, Rajkot.

S. No.	Name	Address
4.	Shri Rawal, P. A., B.E. (Civil), A.M.I.E.	C/o Messrs. P. A. Rawal & Co., Outside Prem Gate, Opposite Flour Mills, Ahmedabad-2.
5.	Shri Shah, V. J., B.E. (Civil), B.S.E. (I), Retd.	Retd. Executive Engineer, Shriji Niwas, Wankaner, Saurashtra.
6.	Shri Bhalla, J. R., F.R.I.B.A., F.I.I.A., F.V.I., M.R.S.H.	18/90, Connaught Circus, New Delhi-1.
7.	Shri Cama, A. F., B.E., A.M.I.E.	13, Thornhill Road, Allahabad.
8.	Shri Bhagyam, G. D., M.I.S.	Retd. Chief Surveyor of Works, 56, Wheeler Road, Cox Town, Bangalore.
9.	Shri Iyer, B. S. Raju, B.E., A.M.I.E., L.M. (M.E.A.).	15-A, Prithvi Avenue, Madras-18.
10.	Shri Krishnamurthy, S. R., B.E., M.I.E. (Ind.).	25-B, Luz Church Road, Mylapore, Madras-1.
11.	Shri Seshayatharam, C., B.E., C.E. (Hon.), M. Am. S.C.E., M.I.E. (Ind.).	Retd. Chief Engineer, P.W.D., Andhra Pradesh, No. 1-2-412/19, Gangamahal Co-op. Colony, Hyderabad.

II. ACCOUNTANTS

- | | | |
|----|--------------------------|--|
| 1. | Shri Saha, G.,
F.C.A. | C/o Messrs. Ray & Ray,
Chartered Accountants,
6, Church Lane,
Calcutta-1. |
|----|--------------------------|--|

III. SPECIALISTS IN JEWELLERY, PRECIOUS STONES AND ORNAMENTS

- | | | |
|----|---|--|
| 1. | Shri Mahajan, B. S.,
M.A., F.G.A. (Lond.). | C/o Messrs. Bala Appaji & Son,
9A, Bruce Street,
Bombay-1. |
| 2. | M/s. Narotamdas Bhau. | Lamington Road,
Bombay-4. |
| 3. | Shri Agnihotri, Sheo Swaroop. | C/o Messrs. Society Jewellers,
Birhana Road,
Kanpur. |
| 4. | M/s. Kanhaiyalal Makundlal
Sarraf. | Ranikuan,
Varanasi. |
| 5. | M/s. T. Vasudeva Setty & Sons. | Shri Krishna Buildings,
Bangalore-2. |

2. The scale of charges for the remuneration of Valuers appointed by the Central Government for valuing any property shall be as fixed below and no such Valuer shall charge a fee at a scale higher than the scale so fixed.

SCALE OF CHARGES

On the first Rs. 50,000 of the property so valued ..	1/2% of the value.
On the next Rs. 1,00,000 of the property so valued ..	1/4% of the value.
On the balance of the property so valued ..	1/8% of the value.

[No. 4/F. No. 5/40/61-Ed.]

T. R. VISWANATHAN, Dy. Secy.

THE MYSORE CENTRAL EXCISE COLLECTORATE, BANGALORE

CENTRAL EXCISE

Bangalore, the 21st February 1962

S.O. 682.—In exercise of the powers conferred upon me under Rule 233 of Central Excise Rules, 1944 read with Rule 141 of the said rules, I hereby direct that all warehouse owners licensed under Rule 140 of Central Excise Rules, 1944 should hereafter intimate receipt of excisable goods for warehousing, to the proper Central Excise Officer having jurisdiction, immediately on arrival of the consignment at the warehouse premises, *either orally or in writing* so as to enable the said officer to visit the warehouse for the purpose of taking receipt account of the goods as required under Rule 141 of Central Excise Rules, 1944.

[No. 4/62.]

N. MOOKHERJEE, Collector.

CENTRAL EXCISE COLLECTORATE, HYDERABAD

CENTRAL EXCISES

Hyderabad, the 24th February 1962

S.O. 683.—In exercise of the powers conferred on me under Rule 54 of the Central Excise Rules, 1944, I hereby direct that the words "in pounds" occurring at the end of this Collectorate Notification No. 5/53, dated 16th April, 1953, be read as "in Kilograms."

[No. 6/62/Central Excises.]

S.O. 684.—In exercise of the powers conferred on me under Rule 233 of the Central Excise Rules, 1944, I hereby direct that in the Collectorate Notifications listed in the table below, the corrections specified against each shall be made.

Serial No.	Number and date of Collectorate Notification	For the words	Substitute
1	Central Excise Notification 5/56 dated 23-8-1956.	No. Maunds—Seers.	Quintals—Kilograms.
2	Central Excise Notification 6/57 dated 14-3-1957.	No. Length in Yards and area in Square yards.	Length in Metres and area in Square metres.

[No. 7/62/Central Excises.]

S.O. 685.—In exercise of the powers conferred under Rule 50 of the Central Excise Rules, 1944, I direct that in the Collectorate Notifications listed in the table below the correction specified against each shall be made.

Sl. No.	Number and date of Collectorate Notification	For the words	Substitute
1	Central Excise Notification No. 4/57 dated 20-2-1957.	"Lbs." occurring in item 3 of the form annexed to the Notification.	Kilograms.
2	Central Excise Notification No. 21/58 dated 31-12-1958.	"Yards" & "Square yards" occurring in item 4(a) & (b) of the form annexed to the Notification.	Metres and Square Metres respectively.

[No. 8/62/Central Excises.]

S.O. 686.—In exercise of the powers conferred under Rule 96 H of the Central Excise Rules, 1944, I hereby direct that in the modified form of R.G. 17 enclosed to the Collectorate Notification No. 8/57, dated 7th May, 1957, the word "Lbs" wherever they occur shall be substituted by the word "Kilograms."

[No. 9/62/Central Excises.]

B. SEN, Collector.

CENTRAL EXCISE COLLECTORATE, DELHI

CENTRAL EXCISES

New Delhi, the 27th February 1962

S.O. 687.—In exercise of the powers conferred under Rule 233 of the Central Excise Rules, 1944, I order that all caustic soda manufacturers shall submit to the Central Excise Officer posted at the factory, a monthly report in the enclosed proforma in triplicate in respect of caustic soda manufactured from sodium chloride by electrolytic process.

Range
M. O. R.
Circle
Division
Collectorate.

Monthly manufacturing Report for Caustic Soda

Month.....

Name of the factory.....

Sl. No.	Description	Weight in Kgs.
1.	No. of working days	
2.	Equivalent No. of hours Cells worked at full load.	
3.	Hours lost.	
4.	No. of working Cells.	
5.	(a) O. B. of Salt in process. (b) Sodium Chloride, content of 5(a).	
6.	(a) Quantity of salt received into process. (b) Sodium Chloride content of 6(a).	

Sl. No.	Description	Weight in Kgs.
7.	(a) Total Salt [5(a)+6(a)] (b) Total Sodium Chloride content [5(b)+6(b)]	
8.	Quantity of materials made ready for despatch (i) Caustic Soda solid containing.....% NaOH by weight. (ii) Caustic Soda Lye containing.....% NaOH.	
9.	Quantity of Caustic Soda in process containing.....% NaOH by weight.	
10.	(a) Closing balance of salt in process. (b) Sodium Chloride content of 10(a).	
11.	(a) Quantity of Salt consumed [7(a)-10(a)] (b) Quantity of Sodium Chloride in 11(a).	
12.	Total Caustic Soda produced during the month in terms of 100% NaOH (calculated from Serial Nos. 8 & 9)	
13.	Sodium Chloride consumed Per Kgm. of 100% NaOH produced.	

Certified that the above particulars are true to the best of my knowledge and belief.

Signature of the owner of the
Factory.

Date.....

[C. No. VI(RR)3/ICE/61.]

K. NARASIMHAN, Collector.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, BOMBAY

NOTICE

Bombay, the 1st March 1962

S.O. 688.—Whereas it appears that the marginally noted goods which were seized at Sarodhi village (Taluka: Pardi) on 15-10-61 by the P.S.I.C.I.D. Vapi, were imported from Daman (Portuguese Territory in India) in contravention Section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of Commerce and Industries, Import Control Order No. 17/55, dated 7-12-1955 issued under the Imports and Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Collector of Central Excise and Land Customs Bombay why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924, read with Section 167(8) of the Sea Customs Act, 1878, along with the gunny bags and cotton bags under Section 168 *ibid* and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924, read with Section 167(8) of the Sea Customs Act, 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the gazette of India, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b)10(11)Cus/62.]

G. KORUTHU,
Collector of Central Excise and Land Customs, Bombay.

MINISTRY OF COMMERCE AND INDUSTRY**ORDER**

New Delhi, the 5th March 1962

S.O. 689IDRA/6/20.—In exercise of the powers conferred by Section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby appoints Shri P. N. Talukdar to be a member of the Development Council established by the Order of the Government of India in the Ministry of Commerce and Industry No. 2582, dated the 26th October, 1961, for the scheduled industries engaged in the manufacture or production of Glass and Ceramics till the 25th October, 1963 and directs that the following amendment shall be made in the said Order, namely:—

In paragraph 1 of the said Order after entry No. 15 relating to Shri B. S. Agarwal, the following entry shall be inserted, namely:—

“15A. Shri P. N. Talukdar, Director, M/s. Hindustan Owners”
Pilkington Glass Works Ltd., Hindustan
Buildings, 4, Chittaranjan Avenue,
Calcutta-13.

[No. 4(32)L.Pr./61.]

J. S. BAKHSI, Under Secy.

MINISTRY OF STEEL, MINES & FUEL**(Department of Mines & Fuel)**

New Delhi, the 27th February 1962

S.O. 690.—In exercise of the powers conferred by clause (1) of article 299 of the Constitution, the President hereby directs that the following instruments may be executed on his behalf by the Deputy Coal Controller (Production), Ministry of Steel, Mines and Fuel, namely:—

“Bonds to be executed by consumers to whom provisional payment of subsidy on coal moved by the rail cum sea route is granted”.

[No. C5-22(9)/61.]

S. KRISHNASWAMI, Under Secy.

MINISTRY OF FOOD AND AGRICULTURE**(Department of Agriculture)**

New Delhi, the 27th February 1962

S.O. 691.—The following draft of certain amendments to the Wool Grading and Marking Rules, 1961, which the Central Government proposes to make in exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937) is published as required by the said section, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after 15th March 1962.

Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

Draft Amendments

1. (1) These rules may be called the Wool Grading and Marking (Amendment) Rules, 1962.

(2) They shall come into force with effect from the 1st April 1962.

2. In rule 6 of the Wool Grading and Marking Rules, 1961, for the figures, words and brackets “200 to 450 lb (90.7 to 204.1 kg.),” the figures and words “100 kg. to 200 kg.” shall be substituted.

[No. F. 12-5/62-AM.]

S.O. 692.—The following draft of certain amendments to the Goat Hair Grading and Marking Rules, 1960 which the Central Government proposes to make in exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937) is published as required by the said section for the information of all persons likely to be affected thereby and notice is hereby given that draft will be taken into consideration on or after 15th March 1962.

Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

Draft Amendments

1. (1) These rules may be called the Goat Hair Grading and Marking (Amendment) Rules, 1962.

(2) They shall come into force with effect from the 1st April 1962.

2. In the Goat Hair Grading and Marking Rules, 1960, in Schedules I to IV, for the figures '4"', '3"' and '1½"', wherever occurring in column 3—'Length' and in column 4—'General characteristics, the figures and letters '100 mm,' '75 mm' and '35 mm' shall respectively be substituted.

[F. No. 12-5/62-AM.]

S.O. 693.—The following draft of certain rules to amend the Bristles Grading and Marking Rules, 1950 which the Central Government proposes to make in exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937) is published as required by the said section, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 15th March 1962.

Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

Draft Rules

1. (1) These rules may be called the Bristles Grading and Marking (Amendment) Rules, 1962.

(2) They shall come into force with effect from the 1st April, 1962.

2. In rule 6 of the Bristles Grading and Marking Rules, 1950 (hereinafter referred to as the said rules),—

(a) in sub-rule (i), for the figure and word '2 inches', the figures and word '51 mm' shall be substituted;

(b) in sub-rule (ii), for the figures and word '20 lbs', '5 lbs' and '100 lbs', the figures and word '10 kg', '3 kg' and '46 kg' shall respectively be substituted;

(c) in sub-rules (iii) and (iv), for the figure and mark '5", the figures and word '127 mm' shall be substituted;

(d) in clause (a) of sub-rule (iv) and in sub-rule (v), for the figure and word '5 lbs', the figure and word '3 kg' shall be substituted.

3. In each of Schedules I to IX to the said rules,—

(a) for the entries in column 1 headed "Grade Designation" and in column 3 headed "Length", the following entries shall be substituted, namely:—

159 mm and over	(6¼" and Over)
152 mm	(6")
146 mm	(5¾")
140 mm	(5½")
133 mm	(5¼")
127 mm	(5")
121 mm	(4¾")
114 mm	(4½")
108 mm	(4¼")

102 mm	(4")
95 mm	(3 $\frac{3}{4}$ ")
89 mm	(3 $\frac{1}{2}$ ")
83 mm	(3 $\frac{1}{4}$ ")
76 mm	(3")
70 mm	(2 $\frac{3}{4}$ ")
64 mm	(2 $\frac{1}{2}$ ")
57 mm	(2 $\frac{1}{4}$ ")
51 mm	(2")

Shorts and Riflings Less than 51 mm (Less than 2")

(b) in the foot notes, for the figures and marks '4 $\frac{1}{2}$ "', '4 $\frac{1}{4}$ "', '4"', '3 $\frac{3}{4}$ "', '2 $\frac{3}{4}$ "', '2 $\frac{1}{4}$ "' and '2"', wherever they occur, the following figures and letters shall respectively be substituted, namely:—

'114 mm', '108 mm', '102 mm', '95 mm', '64 mm', '57 mm' and '51 mm'.

4. In Schedule X to the said rules, for the words "भारत की उत्पत्ति" the words "भारतीय उत्पाद" shall be substituted.

[No. F. 12-5/62-AM.]

CORRIGENDUM

New Delhi, the 2nd March 1962

S.O. 694.—In the notification of the Government of India in the Ministry of Food and Agriculture (Department of Agriculture) S.O. 2942 dated the 6th December, 1961, published on pages 3168 to 3175 of the Gazette of India, Part II, Section 3, Sub-Section (ii), dated the 16th December, 1961:—

1. On page 3168, for "beverages" occurring in the first line of sub-clause (b) of clause 3, read "beverage".

2. On page 3171, for "herebaceous" occurring in the fourth line, read "herbaceous".

3. On page 3171, in Part I B,

(i) in item 1(a), for "ex(factory)", read "ex-factory".

(ii) in item 1(b), for "exceeding Rs. 1,00,000/- not more Rs. 1,00,000/-", read "not less than Rs. 50,000/- and not more than Rs. 1,00,000/-".

4. On page 3172,

(i) in the fifth line, for 'experience in', read 'experience in a';

(ii) in the sixth line, for 'diploma in a', read 'diploma in';

(iii) in the Table of 'requirements for various unit operations' given at the end of the page, for "Bottles" appearing at Sl. No. 2 in column 2 of item I(b), read "Bottle".

5. On page 3173,

(i) against item "2. Preparation of fruit and vegetable", in column 2,

(a) in the first line, for "hightable" read "high table";

(b) in lines 16 and 17, for 'suitable, covers,' read 'suitable covers';

(ii) against item "5. Fermentation", in column 2, in entry 1, for "Jars" read "jars";

(iii) against item "6. Filling and Sealing", in columns 3 and 4, in entry 1, for "Vaccum" read "Vacuum".

6. On page 3174,

(i) in item (5), for 'in the final' read in the final product';

(ii) in item (9), sub-items (a) and (b), for "Minimum total soluble solids weight" read "Minimum total soluble solids weight over weight (W/W).";

(iii) in item (10), sub-item (a), in the second line, for "100 C.C." read "100 c.c.";

(iv) in item (13), in the first line, for "point" read "fruit".

7. On page 3175,

(a) in item (ii), in the second line, for "1.5%", read "0.5%";

(b) in item (iii), for "cases", read "casks".

(c) in the Table in Part XXI, in the third column, against item "2. Copper", for "20.00", read "20.0" and against item "4. Tin", for "250" wherever they occur read "250.0".

[No. F. 8-5/62-AM.]

V. S. NIGAM, Under Secy.

(Department of Agriculture)

(Indian Council of Agricultural Research)

New Delhi, the 27th February 1962

S.O. 695.—Under Section 4(iv) of the Indian Cotton Cess, Act, 1923 (14 of 1923) the Central Government are pleased to appoint Shri Madanmohan R. Rula, Bombay, as a member of the Indian Central Cotton Committee, Bombay from 1st April, 1962 for a period of three years.

[No. 1-4/61-Com. IV.]

New Delhi, the 3rd March 1962

S.O. 696.—The Government of Gujarat having nominated Sarvashri Promodbhai Kanaiyalal Desai, At & Post KIM, Taluka Olpad, District Surat and Dwarkadas Mohanlal Patel, B.Sc. (Agri.), Amreli as members of the Indian Central Oilseeds Committee to represent the Oilseed growers of the Gujarat State, under clause (f) of Section 4 of the Indian Oilseeds Committee Act, 1946 (9 of 1946), the Central Government hereby notifies that Sarvashri Promodbhai Kanaiyalal Desai and Dwarkadas Mohanlal Patel shall be members of the said Committee for the period ending with the 31st March, 1964.

[No. 8-35/61-Com.II.]

SANTOKH SINGH, Under Secy.

MINISTRY OF HEALTH

New Delhi, the 28th February 1962

S.O. 697.—In exercise of the powers conferred by sub-section (1) of section 12 of the Delhi Development Act, 1957 (61 of 1957), the Central Government, after consultation with the Delhi Development Authority and the Municipal Corporation of Delhi, hereby makes the following amendment in the Notification of the Government of India in the Ministry of Health No 12-192/57-LSG, dated the 29th November, 1958:—

In the said notification, in Schedule II, item 'D' and entries against the said item shall be omitted.

[No. F. 8-24/59-LSG.]

A. K. DAR, Under Secy.

New Delhi, the 28th February 1962

S.O. 698.—In exercise of the powers conferred by Sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby directs that the Medical qualification M.B., B.S. granted by the University of Adelaide, South Australia shall be a recognised medical qualification for the purposes of this Act.

[No. F. 16-23/61-MI.]

S.O. 699.—In exercise of the powers conferred by Sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby directs that the Medical qualification Doctor of Medicine (M.D.) granted by the Western Ontario University, Canada shall be recognised medical qualification for the purposes of this Act.

[No. F. 16-21/61-MI.]

ORDERS

New Delhi, the 28th February 1962

S.O. 700.—Whereas the Government of India in the Ministry of Health has, by Notification No. 16-23/61-MI, dated the 28th February, 1962, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification M.B., B.S., granted by the University of Adelaide, South Australia, for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies the period of two years with effect from the date of this Order or so long as Dr. James William Mcmillan, who possesses the said qualifications continues to work in the Sankeshwar Mission Hospital, and Silver Jubilee Leprosy Hospital, Sankeshwar, Belgaum District, to which he is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. James William Mcmillan shall be limited.

[No. F. 16-23/61-MI.]

S.O. 701.—Whereas the Government of India in the Ministry of Health has, by Notification No. F. 16-21/61-MI, dated the 28th February, 1962, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "Doctor of Medicine" (M.D.) granted by the Western Ontario University, Canada for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies the period of two years with effect from the date of this Order or so long as Dr. John Stewart Mckim who possesses the said qualifications continues to work in the Christian Medical College, Ludhiana, to which he is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. John Stewart Mckim shall be limited.

[No. F. 16-13/61-MI.]

S.O. 702.—Whereas the Government of India in the Ministry of Health has, by Notification No. 16-21/61-MI, dated the 28th February, 1962, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "Doctor of Medicine" (M.D.), granted by the Western Ontario University, Canada, for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies the period of two years with effect from the date of this Order or so long as Dr. Dorothy Elizabeth Timpany, who possesses the said qualification, continues to work in the Bathel Hospital, Vuyyuru, Krishna District, Andhra Pradesh, to which she is attached for the time being for the purposes of teaching, research, or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Dorothy Elizabeth Timpany shall be limited.

[No. F. 16-21/61-MI.]

A. C. RAY, Under Secy.

MINISTRY OF WORKS HOUSING AND SUPPLY*New Delhi, the 10th March 1962*

S.O. 703.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby directs that the Notification No. 24/73/60-S&P.I, dated the 30th September, 1961, published under S.O. 2504 of 1961 in Part II Section 3 Sub-Section (ii) of the Gazette of India, No. 42, dated the 21st October, 1961, should be treated as withdrawn.

The President hereby further directs that in the Schedule to the Recruitment Rules, 1961 for the post of Reception Officers (Press Security Organisation) notified with the Ministry of Works, Housing and Supply No. 24/73/60-S&P.I, dated the 1st September, 1961 and published under S.O. 2898 of 1961 in Part II, Section 3 Sub-Section (ii) of the Gazette of India No. 49, dated the 9th December, 1961, the following Corrections shall be made, namely:—

The word 'Promotion' appearing at the end of the heading "percentage of posts to be filled by Promotion" over col. 5-7 shall be deleted.

[No. 24/73/60-S&P.I.]

D. P. KARNIK, Dy. Secy.

MINISTRY OF REHABILITATION**(Office of the Chief Settlement Commissioner)***New Delhi, the 3rd March 1962*

S.O. 704.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 18 of the Displaced Persons (Compensation and Rehabilitation) Act No. 44 of 1954, the Central Government hereby appoints for the State of Bihar, Shri V. I. Tewani for the time being holding the post of Asstt. Settlement Officer under the Regional Settlement Commissioner, Patna at Delhi, as Managing Officer, for the custody, management and disposal of compensation pool with effect from the date he took charge of his office.

[No. 8/172/ARG/57.]

KANWAR BAHADUR,

Settlement Commissioner & *Ex-officio*
Dy. Secy.**MINISTRY OF LABOUR AND EMPLOYMENT***New Delhi, the 28th February 1962*

S.O. 705.—In exercise of the powers conferred by sub-section (1) of Section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri G. S. Gopalakrishna Setty to be an Inspector for the whole of the State of Mysore for the purposes of the said Act and of any scheme framed thereunder, in relation to an establishment belonging to, or under the control of, the Central Government, or in relation to an establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry.

[No. 20/18/62-PF-I.]

S.O. 706.—In exercise of the powers conferred by sub-section (1) of Section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri R. K. Chopra to be an Inspector for the whole of the Union Territory of Delhi for purposes of the said Act and of any scheme framed thereunder, in relation to an establishment belonging to, or under the control of, the Central Government, or in relation to an establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry.

[No. 20/19/62-PF-I.]

P. D. GAIHA, Under Secy.

New Delhi, the 1st March 1962

S.O. 707.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Albion Colliery and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD.

REFERENCE No. 30 OF 1961

Employers in relation to the Albion Colliery

AND

their workmen

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

Camp: Bombay dated: 23rd February 1962

APPEARANCES:

For the employers.—Shri Y. P. Mafi, Manager of the Colliery.

For the workmen.—Shri P. Burman, General Secretary, Bihar Koyla Mazdoor Sabha.

STATE: Bihar

INDUSTRY: Coal Mining.

AWARD

The Government of India, by Ministry of Labour and Employment's Order No. 2/102/61-LRII dated 24th May 1961, made in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) was pleased to refer the industrial dispute between the parties above named in respect of the subject matters specified in the following schedule to the said Order to this Tribunal for adjudication:

SCHEDULE

"Whether the dismissal of Sarvashri Soukhi Bhuyā, Soudagar Bhuya, Gulla Bhuya, Kameshwar Bhuya, Bhatta Bhuya, Maksudin Bhuya, Baiju Bhuya, Jaymangal Bhuya, Kisun Bhuya, Gajo Bhuya and Mangar Bhuya, trammers of Albion Colliery, by the management was justified. If not, to what relief are the workmen entitled?"

2. After the parties had filed their written statements, the dispute was taken up for hearing at Dhanbad on 22nd January 1962 and the hearing was concluded on 24th January 1962.

3. The Union in its written statement has urged that these 11 trammers were wrongfully dismissed with effect from 26th September 1960. According to the Union, the genesis of this dispute lay in the fact that the management was paying these trammers, who are admittedly piece-rated, lower wages than they were entitled to under the Decision of the Labour Appellate Tribunal, dated 29th January 1957; that consequently on 18th December 1959 the union made a representation to the Regional Labour Commissioner (C), Dhanbad in that matter; that after a protracted investigation the employers were compelled to rectify their mode of payment with effect from 1st June 1960, by which the emoluments of the trammers were increased; that these 11 trammers constituted one gang whilst the trammers in the other two shifts were composed of gangs of 15 to 20 persons; that only these 11 trammers were the members of the union and they only were at first given the benefit of the said wage increase; that later, the trammers in the other two shifts also pressed for the same increase in their wages and the management realising that they would not be able to maintain two methods of payment, chose the alternative of getting rid of these 11 trammers, who were members of the union, in the hope that the other trammers would be intimidated into not pressing their lawful claims; that because of the difference in the strength of the gangs of trammers in the three shifts, the average raisings was not uniform and the production of this gang of 11 trammers was low; that the management utilised this opportunity by serving notices dated 27th August 1960 against these 11 trammers charging them with not giving the proper work-load and of having slowed down work. The charge

sheet stated that this was in violation of clauses F, G and K of section 18 of the Model Standing Orders. I may state that clauses F, G and K of the model standing orders provide for misconducts of habitual negligence, indiscipline and slowing down, respectively. These workmen were, therefore, called upon to show cause why disciplinary action should not be taken against them for these misconducts. The workmen replied to these charge-sheets by their letter dated 1st September 1960 in which they denied the charge and stated that the management was trying to harass them because they were members of the union and had put obstacles in their working such as not repairing the tram-lines and not giving them double line etc. They also stated that the trammers in the other shifts had the advantage of more members in their gangs and they were also given facilities of double line. They stated that the short production by their gang was not due to any default on their part but was due to the obstacles placed by the management in their way and they prayed that the charge-sheets be withdrawn.

4. Thereupon, an enquiry was held by the management on 15th September 1960 at which each of these 11 trammers stated that the reasons for their low output were that the number of trammers in their shift was 11, whilst the number of trammers in the other two shifts was 15 to 16, and they worked on contract basis; that the other trammers got double line for unloading their tubs whilst they got only a single line. At this enquiry, Shri Mahabir Prasad Sharma, the Surface in-charge, gave evidence in which he stated that these trammers were also given the facility of double line and that it was not correct that the number of trammers in the other two groups was more; that the attendance of trammers in the other two gangs had also averaged between 5 to 12 in each shift. He further stated that these 11 trammers, who belonged to the gang of one Gajo Bhuya, were giving less average output *per capita* per day for which they had been verbally warned; but they had paid no heed to these warnings and had indulged in slowing down production and giving less output. The Enquiry Officer, Shri Hariram Choudhury, made his report dated 19th September 1960 (annexure 'B' to the company's written statement) in which he found these 11 workmen guilty of the misconduct with which they were charged and recommended that, "some disciplinary action should be taken so that others may not commit such acts in the future." Thereupon, these workmen were dismissed from service by the company's letter dated 22nd September 1960 signed by the Manager of the Colliery.

5. The union has urged that the departmental enquiry was one sided at which the rules of natural justice were not observed and that the finding of the Enquiry Officer was perverse in that the Enquiry Officer had in finding these trammers guilty of the misconducts alleged against them relied upon a chart of attendance and of production which had not been placed before him at the enquiry and on which the workmen did not get a chance to have their say; that the said charge had in fact been prepared after the enquiry was concluded.

6. The company in its written statement has denied the story of short payment to the trammers and has stated that because these piece-rated trammers were unable to earn their prescribed wages, the colliery was paying them made up wages of 75% of the awarded rate, being the awarded rate of guaranteed wages for piece rated workers; that under persuasion from the Conciliation Officer the management had increased its piece-rate by 2 naya paise to enable these trammers to earn their minimum wages but in spite of that these trammers continued to earn lesser wages because they had slowed down production; whilst admitting that these 11 trammers worked in one shift, the management has denied that the gangs in the other shifts were composed of 15 to 20 trammers as alleged by the union. It has stated that the other two gangs of trammers consisted generally of 9 to 11 trammers, the maximum being 12 and the minimum being 5. The management has, therefore, denied that there was such a remarkable difference in the strength of each group to warrant the difference in their output and has stated that the average output *per capita* of these 11 trammers was—5.9 tubs, whilst that of the other groups was 7 and 7.6 tubs respectively—being far less than that of the other two groups; that the enquiry conducted by the management was fair and proper and that the workmen were given the opportunity to produce all their evidence and to cross-examine the management's witnesses. The management has annexed an English translation of the record of the enquiry, as annexure 'B' to its written statement and has stated that the misconduct having been established after a proper enquiry, the dismissal of these workmen was justified and this Tribunal should find accordingly.

7. At the hearing, Shri Mall, the Manager of the Colliery examined Shri Hari Ram Choudhury, Assistant Labour Officer (E.W.1), who held the enquiry, and Shri Mahabir Prasad Sharma, Surface-in-charge (E.W.2) and the union examined Shri

Soukhi Bhuya (W.W.1), the first named of the 11 dismissed trammers under reference. The management filed, the record of the departmental enquiry (Ex. E. 2 collectively); enquiry report of Shri Hari Ram Choudhury dated 19th September 1960 (Ex.E.1); surface attendance register from 16th September 1959 to 2nd May 1960, from 1 A.M. to 9 A.M. (Ex. E.3) and 8 Pay sheets for 8 weeks between 7th March 1960 to 11th April 1960 (Ex.E.4) and the Union has relied upon a letter dated 19th August 1960 from the Conciliation Officer (Central) Dhanbad to the General Secretary of the Union (Ex.W.1).

8. The union's case as stated in its written statement and as sought to be made out at the hearing may be summarised as being:—

- (1) that the management was paying its trammers lower wages than prescribed by the decision of the Labour Appellate Tribunal of India and that the management got rid of these 11 trammers because they were members of the union and had made the management give trammers their proper wages as directed by the Labour Appellate Tribunal;
- (2) that at the enquiry held by the management the rules of natural justice were not observed;
- (3) that in any case, the evidence did not establish the charge that these workmen had committed misconduct under clauses F, G and K of section 18 of the Model Standing Orders; that on the merits the charge of low production was not established as there were lesser number of workmen in the gang of these 11 trammers which is known as Gaje Bhua's gang than in each of the other two gangs and that they were in any case not allowed certain facilities in working which were made available to other gangs.

9. With regard to the first contention of the union, I think there is sufficient background material to suggest that it was as a result of the efforts of this union that from 1st June 1960 the trammers started getting wages as directed by para 152 of the Labour Appellate Tribunal's decision. By para 152 of its decision the Labour Appellate Tribunal had directed that in any event a piece rated trammer should not get less wages for a day's work than that fixed by it for the time rated trammers. It is admitted, and it is clear from exhibit W-1 filed by the Union, that it was only after 1st June 1960 that these trammers were paid the awarded wages. The Union's grievance as stated in its letter dated 7th March 1961 addressed to the Conciliation Officer (C), Dhanbad, was that on being made to pay awarded wages, the management continued its efforts to take 12 hours work from these trammers, who, however, refused to be pressed into working for 12 hours. Being frustrated in its efforts, the management recruited some casual labour in the other shifts, without entering their names in the Form 'B' Register and pay rolls and thus increased to 15 hands, the number of trammers of the gangs in the other two shifts. Due to this there was a discrepancy in the out-put figures of this shift and the other shifts. Further, in order to make its case more presentable the management resorted to putting obstruction in the working of this gang. It does seem to me that there is substance in the union's suggestion that it was due to the efforts of the union, of which these 11 trammers were admittedly members, that the management was forced to pay the proper wages to the trammers and that consequently the management, had reason to be displeased with these workmen.

10. With regard to the second contention of the union that the rules of natural justice were not observed at the enquiry, it is admitted that the chart with regard to the working of the surface trammers from the week ending 4th January 1960 to 29th August 1960 on which the Enquiry Officer had mainly relied in finding these 11 trammers guilty, was not produced at the enquiry by any witness of the management, and consequently these 11 trammers were not given a chance at the enquiry to test the correctness of that chart. The surprising feature is that this chart was admittedly prepared by the Enquiry Officer himself after the enquiry was over and at a stage when he was writing his enquiry report Ex.E.1.

11. No doubt, at the hearing before me, the management produced other documents viz., surface attendance register from 16th September 1959 to 2nd May 1960 (Ex.E.3) and pay sheets for 8 weeks between 7th March 1960 to 11th April 1960 (Ex.E.4). But the correctness of the entries in these attendance register and pay sheets were disputed by the union in cross-examination of the company's witness Shri Mahabir Prasad Sharma, the surface-in-charge. Shri Sharma could not give any satisfactory explanation as to why in some consecutive week-endings, from 28th March 1960 to 11th April 1960 there were changes in the sub-titles of the workmen and why the trammers of the other shifts were not paid directly from

the office. In his cross-examination, E.W-2, Shri Mahabir Prasad Sharma, had to admit that the mines rules required that every page of the attendance register should be signed by the attendance clerk concerned and witness admitted that on several pages of the attendance register, filed by the management (E.E.3) there are no initials of the attendance keeper. Witness could not further explain why the pay sheets (Ex.E.4) for the week ending 14th March 1960 and 6th June 1960 showed the names of completely new Sirdars and trammers on the surface. For instance he had to admit that the mention of the name of Lughu Mahato in the pay sheet for week ending 28th March 1960 and of Lughu Bhula in the pay sheet for the week ending 4th April 1960, was wrong and a mistake. He had to further admit that the mention of the name of Dhukan Mahato in the pay sheet for the week ending 21st March 1960 and of the mention of Dhukan Bhula in the pay sheet for the week ending 28th March 1960 in the gang of Jayaram Mahato were also wrong and a mistake. It is thus clear that the documents which the company has produced contain mistakes, which have not been satisfactorily explained. These mistakes go to support the union's contention that these records are not reliable and correct.

12. The next contention of the union, is that though the charges were that these miners had committed breaches of clauses F, G and K of section 18 of the model standing orders namely that they had been guilty of habitual negligence of work, indiscipline and of slowing down, there is no evidence whatsoever on the record to establish habitual negligence or neglect of work or habitual indiscipline or slowing down. The union has, in my opinion, rightly stressed the fact that prior to the dismissal of these workmen there was not even a warning issued to them. Its contention is that if these 11 trammers had been deliberately slowing down over a long period, surely, the management would have issued a written warning to them. The management has sought to prove habitual negligence or neglect by the statement made at the enquiry by Shri Mahabir Prasad Sharma, that these trammers had been verbally warned several times but they had not paid any heed. But he has not stated when they were warned and on how many occasions I think that the management would have at least issued a written warning to these workmen not to indulge in deliberate slowing down when during the five months the workmen were paid made up wages to bring their earnings to the guaranteed minimum wage prescribed by the decision of the Labour Appellate Tribunal. It is admitted that the company paid the "made-up-wages" to these workmen from 7th March 1960 to 29th August 1960. It is also admitted that the management had to pay the workmen of the other gangs "made-up-wages", though the "made-up-wages" paid to those gangs were not for as many weeks as for these 11 workmen. But the fact that "made-up-wages" had to be paid proves one of two things; that the tubs rate paid by the management was lower than the prescribed rate or that the working conditions were not such as would enable the workmen to give the normal workload.

13. The third argument advanced by the union in support of this contention is that Shri Mahabir Prasad Sharma had conducted the case for the management at the Enquiry Committee and had also appeared as a witness in those proceedings. It is further significant that Shri Mahabir Prasad Sharma had not referred to any charts in his evidence at the enquiry, but that the Enquiry Officer, Shri Hari Ram Choudhury had later, after the enquiry was concluded made up the chart and annexed it to his report. It is still more significant that Shri Hari Ram Choudhury, who held the enquiry, had not in his report dated 19th September 1960 (Ex.E.1) anywhere stated that he had found these workmen guilty of go slow, because in cross-examination he admitted:—

"I held the enquiry on 15th September 1960. It is true that my report (Ex.E.1) does not state that I had found them guilty of go-slow."

On these facts, the Union has suggested that the allegation that the group of Gaja Bhula (consisting of these dismissed 11 trammers) was giving on an average only 5-10 tubs, by deliberately resorting to go-slow whereas the trammers in the other two gangs were giving on an average 7 and 7-60 tubs respectively per shift, was made up after the reference was made. This contention of the Union has received support from the state in which the surface Register and the pay sheets of the Company are found and by the fact that Shri Mahabir Prasad Sharma the Surface-in-charge had to admit that these documents contained wrong entries and were not maintained in the prescribed manner.

14. On a careful consideration of the evidence on record and the submissions of the parties, I am inclined to think that the management had not at the enquiry satisfied the requirements of the rules of natural justice and that the evidence led at the hearing before me and the documents filed show that the records from

which the chart was prepared—and on which these 11 trammers, dismissal is based, —are not reliable.

15. With regard to the third contention of the union on the question of low production the workers' case is (1) that the other gangs had more workmen than their gang and (2) that this gang was not given the facilities of double line and their tram lines were not properly and quickly repaired. I have already shown how the company's record is not reliable with regard to the number of workmen in the two other gangs. With regard to the second point, the union's witness (Soukhi Bhuya-W.W.1) when cross-examined by the Manager of the Colliery stated that these eleven dismissed trammers used to clear the jammed line near the depot and then push the tubs and that these workmen were not given the double line. Shri Mali, the Manager of the Colliery, has argued that it could not be that double line could be given in one shift and not in the other shifts. That may or may not be so. But Shri Mali went on to argue that the low production of these 11 trammers was due to the fact that these eleven trammers themselves were doing the work of line mistries and, therefore, whatever work they did as line mistries, such as the repairing of tram lines, had contributed to their low production, for which they were themselves to blame. He further stated that these trammers were deliberately spoiling the track and were thus wasting their time resulting in low production. I find it impossible to believe this story. There is no evidence whatever of the deliberate spoiling of the track by these 11 trammers and this allegation, which was made for the first time by Mr. Mali in his address to the Tribunal, is impossible to believe. It is also difficult to believe that these trammers should have themselves attended to repairing the tram line when the lines got jammed, if there were line mistries available for doing that job, because they could have utilised that time in pushing the tubs and earning more wages. On these findings, I hold that this case would be covered by the exceptions of (1) want of good faith and (2) violation of principles of natural justice by the employer and I would, therefore, on the principles laid down by the Hon'ble Supreme Courts in its judgement, in the case of *Indian Iron & Steel Co., vs. Their workmen* (1958, I.L.J. p. 260) be justified in, interfering with the management's action against these workmen.

16. In the overall result, I hold that the dismissal of these 11 trammers was not justified and I answer the first question under reference accordingly.

17. The next question to consider is what relief these trammers are entitled to. The Union has strongly pressed for their reinstatement in their former posts from the date they were dismissed from service. Normally, when dismissal is held unjustified, an order for reinstatement would follow. It is, however, admitted that most of these 11 dismissed workmen have found employment elsewhere. From the evidence on record and the submissions made by the parties, and the special circumstances of this case, I think that a direction to reinstate them in service would not be conducive to industrial peace. There is a great rivalry between these 11 trammers who formed a separate gang and the other gangs, and the management apprehends that if these workmen are reinstated the industrial peace which at present exists in this colliery would be disturbed. In these circumstances, I feel that the proper order to make is to direct that the company shall pay to each one of these dismissed workmen compensation equivalent to half month's wages (basic wages plus dearness allowance) for each completed year of service, service for more than six months to be treated as one year, and in addition pay them one month's wages as notice pay.

18. The company has filed a statement giving the details of the length of service of each of these 11 trammers in this colliery i.e. it has shown when each of these 11 workmen joined the service of this colliery. This statement was filed on 24th January 1962. In respect of 10 of them, the company has also mentioned their provident fund account numbers and it claims that the date of appointment in respect of each of the workmen shown by it in its statement is supported by the relevant entries in their provident fund account. The union has not accepted this statement but it has not filed any statement showing when any of these workmen joined the service of the company. I would, therefore, adopt the basis of the company's statement as correct and direct that the service for which compensation should be payable shall be calculated on the details shown in the company's statement. Wages will mean basic wages, plus dearness allowance. I further direct that the amounts calculated on the above basis shall be paid to each of the 11 trammers under reference within a month of the date this award becomes enforceable.

19. As the workmen have succeeded partially I award Rs. 50/- as costs to be paid to the union, also within a month of this award becoming enforceable.

Sd./- SALIM M. MERCHANT,
Presiding Officer,
Central Government Industrial Tribunal,
Dhanbad.

[No. 2/102/61-LRII.]

S.O. 708.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to Messrs Bhowra Coke Company and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL:
CALCUTTA.

REFERENCE No. 6 OF 1962.

PARTIES:

Employers in relation to Messrs Bhowra Coke Company.

AND

Their workmen.

PRESENT:

Shri L. P. Dave—*Presiding Officer*.

APPEARANCES:

For the Employers—

1. Miss Aparna Bhattacharjee, Advocate.
2. Shri S. K. Roy, Proprietor, Bhowra Coke Co.

For the workmen—

3. Shri A. P. Chakravorty, Advocate.
4. Shri R. N. Mukherjee, Secretary, Bhowra Coke Co., (H.Q.), Employees Union.

STATE: West Bengal.

INDUSTRY: Coal.

AWARD

By Government of India, Ministry of Labour & Employment, order No. 2/81/61-LRII, dated 23rd May, 1961, the industrial dispute existing between Messrs Bhowra Coke Co., and their workmen employed in their Head office in respect of the following matters was referred for adjudication to the Industrial Tribunal, Dhanbad:—

1. Whether the dismissal of Shri R. N. Mukherjee is justified and if not, to what relief is he entitled?
2. Whether the termination of services of Sarva Shri Nripendralal Dasgupta and Monotosh Chakravarty was justified and if not, to what relief are they entitled?
3. Whether the Company was justified in stopping from the year 1958, the half-yearly bonus, which were being paid to their workmen since 1945, and if not, to what relief are they entitled?
4. Whether the existing scales of pay, medical benefits, service conditions, retiring benefits and the system of recruitment are satisfactory, and if not, what adjustments and modifications are considered necessary?

By subsequent order No. 4/90/61-LRII, dated 13th December, 1961, the proceedings in relation to the above dispute were withdrawn from the Dhanbad Tribunal and transferred to this Tribunal for disposal according to law.

2. In response to the notices issued by the Dhanbad Tribunal, parties had filed their written statements. On the matter being transferred to this Tribunal, this Tribunal fixed it for hearing on 17th January, 1962. On that day, it was stated

by the parties that negotiations for settlement were going on between them and that the matter was likely to be settled. An adjournment was, therefore, asked for and the matter was fixed for hearing on 16th February, 1962. When the matter was called out on that day, the parties stated that they had reached an agreement on some points but that discussions were going on between them on the other points. After prolonged discussions and negotiations, the parties ultimately arrived at a settlement and produced a memorandum before the Tribunal. A copy of the said memorandum is attached herewith, marked Annexure 'A'.

3. The dispute between the parties related to several matters; viz., dismissal of one workman and termination of services of two others; bonus, scales of pay, service conditions, retiring benefits etc. Under the settlement, it has been agreed that the dismissed workman will be re-instated without any break in his service; out of the other two whose services have been terminated, one is to be re-instated without break in his service. The other is to be paid a sum of Rs. 500 in full settlement of his claims. The other workman whose services were terminated and who is to be re-instated is also to be paid a lump sum of Rs. 500 in addition to his being reinstated. Regarding bonus, it has been agreed, without prejudice to the rights of either party, that the employer would pay bonus for the year 1958, to 1961, at the rate of two month's wages per year. Under the agreement, the scales of pay and dearness allowance have been revised. A provision has been made for retirement benefits. Regarding medical benefits and other service conditions, it has been agreed that the provisions of Shops and Establishment Act, would be applicable.

4. I have gone through the terms of the settlement and the record of the case and have also heard the advocates appearing for the two parties and I am satisfied that the compromise is fair and reasonable.

In the result, I pass an award in terms of the compromise.

L. P. DAVE, Presiding Officer.

20th February, 1962.

ANNEXURE 'A'

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL GOVT.), CALCUTTA.

REFERENCE No. 6 of 1962.

PARTIES:

Employers in relation to Messrs Bhowra Coke Co.

AND

Their workmen.

Represented by Bhowra Coke Co.; (H.O.) Employees' Union, 27/B, Harish Mukherjee Road, Calcutta-25, to be hereinafter known as Union.

AND

in the matter of an order of reference Government of India Ministry of Labour and Employment dated the 23rd May, 1961, issued by A. L. Handa, under Secretary (2/81/61-LRII), published in Part II, Section 3, Sub-Section (ii), of the Gazette of India.

The humble joint petition of the Company and the Union most respectfully sheweth:—

(1) That the above mentioned Union in their representation dated 9th January, 1961, submitted a charter of demands and further demanded for reinstatement of Sri R. N. Mukherjee, Secretary of the Union and Sarvashri N. L. Das Gupta and Monotosh Chakravorty and for payment of Bonus stopped from September, 1958.

(2) That some of the demands of the Charter of Demands and the cases of reinstatement have been referred to the above Industrial Tribunal, Government of India for adjudication.

(3) That those have been mentioned in the schedule of the order of reference as given hereunder:—

1. Whether the dismissal of Shri R. N. Mukherjee is justified and if not, to what relief is he entitled?

2. Whether the termination of services of Sarva Shri Nripendralal Das Gupta and Monotosh Chakravorty was justified and if not, to what relief are they entitled?
3. Whether the Company was justified in stopping from the year 1958, the half-yearly bonus, which were being paid to their workmen since 1945, and if not, to what relief are they entitled?
4. Whether the existing scale of pay, medical benefit, service conditions, retiring benefits and the system of recruitment are satisfactory, and if not, what adjustments and modification are considered necessary?

(4) That the Company and the Union have amicably settled the dispute as referred to above under the schedule of the order of reference for the interest of Industry and for the growth of peace and harmony between the employer and the employees:

Terms of Settlement

1. (a) It is agreed that Sri R. N. Mukherjee will be reinstated in service with effect from 17th February, 1962 without break in service and the period of his absence from the date of his dismissal to the date of reinstatement will be treated as on 'leave without pay'. Shri Mukherjee will be posted immediately at the Head Office, but it will be open to the employers to transfer him to Giridih with effect from 1st April, 1962.

(b) It is hereby agreed regarding issue No. 2 under the schedule of the order of reference that Sri N. L. Dasgupta will be reinstated in service at the head office at Calcutta from the month of February, 1962 without any break in his service. The period of his forced unemployment will be treated as leave without pay, but he will be paid the sum of Rs. 500 within a week from the date of his reinstatement in service. He will have no other claim against the company.

(c) It is hereby agreed that Sri Monotosh Chakravorty will be paid a sum of Rs. 500 by the Company within a week in full and final settlement of his claims including reinstatement in service of the company.

(d) It is agreed that without prejudice to the rights of the parties concerned the company will pay bonus for the years 1958 to 1961 at the rate of two months' wages, per year, that is to say basic pay and dearness allowance, to the workers within a week from the date of this agreement.

(e) With regard to issue No. 4 under schedule of the order of reference it is agreed that the scales of pay will remain the same as at present as enumerated in the service rules of the head office workers of the company with the following modifications:—

(i) The following Employees who are in grade III of the existing pay-scale of the company shall be raised to Grade I and be fixed as under:—

- (a) Shri D. P. Mukherjee Rs. 130—7—193—201.
- (b) Shri R. G. Krishnan Rs. 120—7—190—201.
- (c) Shri S. K. Chatterjee Rs. 120—7—190—201.

(ii) Regarding pay-scale of Subordinate staffs it is agreed that the present basic wages shall be increased by 18 per cent.

(iii) That the above grade and scales of pay shall be given effect to from 1st February, 1962.

(iv) The permanent staffs (other than officers and the staffs on consolidated rate of pay) would be entitled to Dearness Allowance which has been fixed for the present basing on a figure of wholesale price index varying between 390 and 400 point at the following rates:—

100	Percent of the	1st	100	of the basic pay
50	„	2nd	100	do
25	„	3rd	100	do

The rates of Dearness allowance would rise or fall with the rise or fall of wholesale price index. Such rise or fall of Dearness Allowance be made at the rate of 5 per cent for rise or fall of every 10 point of the wholesale price index

2. Medical benefits will be as per Shops and Establishment Act so far any of its provisions is found not repugnant to the existing condition of service as enjoyed by the workers.

3. Regarding service conditions it is agreed that provisions of the Shops and Establishment Act, so far any of the provisions is not found repugnant to the existing conditions of service as enjoyed by the employees of the head office, shall be applicable.

4. It is agreed that in case of employees who retire after 10 (ten) years' continuous service shall be paid a gratuity equal to 15 days' pay, basic and dearness allowance for each completed year of continuous service. This pay will be the pay that is being drawn by him at the time of his retirement. The word 'Retirement' shall include voluntary retirement and retrenchment.

5. That both the company and the Union Pray that an Award may be given as per terms of settlement as stated in the foregoing paragraphs and the Industrial disputes as referred to this Tribunal may be disposed of accordingly.

6. No cost may be awarded to either of the parties, and your petitioners as in duty bound shall ever pray.

Bhowra Coke Company
3B, Garstin Place,
Calcutta—1.
16-2-62

Bhowra Coke Co. (H.O.)
Employees' Union.
27B, Harish Mukherjee Road,
Calcutta-25.

RABINDRA NATH MUKERJIE, Secy.
16-2-62
Advocate for the Union

Amar Prasad Chakrabarty,
16-2-62
Advocate for the Company.

[No. 2/81/61-LRII.]

New Delhi, the 2nd March 1962

S.O. 709.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Jaipur, in the industrial dispute between the employers in relation to the Jaipur Udyog Limited, Sawai Madhopur and their workmen employed in Phalodi Quarries.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL JAIPUR

PRESENT:

Shri A. N. Kaul.

Case No. CIT-2 of 1962.

Ref:—Government of India, Ministry of Labour and Employment Order No. 22/3/62-LRII dated 30-1-62.

In the matter of an Industrial dispute

BETWEEN

The Jaipur Udyog Ltd., Sawai Madhopur

AND

Their workmen employed in Phalodi Quarries.

AWARD

The Government of India in the Ministry of Labour and Employment, through its order No. 22/3/62-LRII dated the 30th January, 1962, has constituted an Industrial Tribunal with myself, as its Presiding Officer and has referred to it, for adjudication, an industrial dispute in respect of the matter specified in the Schedule annexed thereto. The dispute is between the employers, in relation to the Jaipur Udyog Limited, Sawai Madhopur and their workmen employed in Phalodi Quarries and the matter in dispute as specified in the Schedule is as follows:—

"Whether the demand of the workmen of Phalodi Quarries (of Messrs. Jaipur Udyog Limited) represented by the Cement Works Karamchari

Sangh, Sawai Madhopur, for payment of annual bonus for 1960-61, is justified? If so, to what relief are the workmen entitled?"

On receipt of the Reference the usual notice was issued to the General Secretary, Cement Works Karamchari Sangh, Sawai Madhopur (hereinafter referred to as the Sangh) requiring him to file a statement before this Tribunal on the 12th January, 1962. No such statement was filed by the Sangh on the aforesaid date. On the 14th February, 1962, however, a duly verified joint application purporting to have been signed by Shri R. C. Dixit, General Secretary of the Sangh on its behalf and by Shri R. N. Chaturvedi, Works Manager of the Jaipur Udyog Ltd., Sawai Madhopur was filed stating that the parties had arrived at a mutual settlement in respect of the dispute and seeking an award in terms of the agreement.

The settlement covers not only the dispute referred to the Tribunal but also bonus for some future years.

It is obvious that a mutual settlement, as contained in Annexure 'A' to the joint application has been arrived at between the parties and there is no reason why an award in terms of the settlement in so far as it covers the dispute under the present reference be not passed. I accordingly pass an award in terms of the settlement, Annexure "A", which shall form part of the award.

(Sd.) ANAND NARAIN KAUL,
15-2-62.

Presiding Officer,
Central Government Industrial Tribunal, Jaipur.

ANNEXURE 'A'

(Sd.) A. N. KAUL, 15-2-62.

Memorandum of Settlement

This agreement is made this the 4th day of February, 1962, between the Management of the Jaipur Udyog Limited, Sawai Madhopur, represented by its Works Manager, of the One Part (hereinafter called the 'Company') and the workmen of the Jaipur Udyog Limited, represented by the Cement/Works Karamchari Sangh (hereinafter called the 'Union') of the Other Part;

Whereas the workmen of the Jaipur Udyog Limited, through their Union, made a demand for bonus amounting to ten months' wages for the year 1960-61;

And whereas the management expressed their inability to grant bonus in view of non-availability of surplus according to the Full Bench Formula;

And whereas the Government of Rajasthan has referred the matter to the Industrial Tribunal, Rajasthan, for adjudication on 19th January 1962;

And whereas the workers struck work with effect from zero hour of 21-1-62;

And whereas the workers continued their strike in spite of prohibitory orders issued by the Government of Rajasthan and later by the Government of India;

And whereas the Union made approaches to the management for an agreed settlement and the management, being desirous of maintaining long term peaceful and amicable industrial relations, hereby agree to a mutual settlement so that all efforts might be exerted towards augmenting production in the interest of the parties themselves as well as in the larger interest of the country.

Terms of Settlement

(1) The workers employed by the Company will be given bonus for the years 1959-60 to 1963-64 as under, subject to other terms of the Agreement.

(a) **For the accounting year 1959-60.**—Equivalent to 1 (one) month basic wage of the worker during the respective year and the matter will not be pursued any further in arbitration.

(b) **For the accounting year 1960-61.**—Equivalent to 1½ (one and one quarter) month of basic wage of the worker during the respective year, and the matter will not be pursued any further in adjudication.

(c) **For the accounting year 1961-62.**—Equivalent to 1½ (one and one quarter) month of basic wage of the worker during the respective year. If the workmen

like, they may have the matter referred for adjudication by the Industrial Tribunal.

(d) For the accounting year 1962-63.—Equivalent to $1\frac{1}{2}$ (one and one half) month of basic wage of the worker during the respective year, subject to clause (2) below.

(e) For the accounting year 1963-64.—Equivalent to $1\frac{1}{2}$ (one and one half) month basic wage of the worker during the respective year, subject to clause (2) below.

(2) The aforesaid quantum of bonus for the year 1962-63 and or 1963-64 shall be subject to adjustment either way, and be determined according to the formula evolved by the Bonus Commission provided the same is made applicable by the Government for any of these two years in question.

(3) Only those workers, who are employed on production/maintenance jobs and who have worked for a minimum of 240 days or above, will be eligible to receive full bonus as mentioned in clause (1) above.

(4) The workers, who have worked for a minimum of 90 (ninety) days in the year in question, will be eligible to receive bonus in proportion to the basic wage earned by them during the respective year.

The period spent by the workers on training or on probation will be included provided they have been confirmed on permanent basis.

(5) Casual labour will not be entitled for bonus.

(6) The workers, who have served partly on maintenance/production jobs and partly on erection/construction jobs during the year in question, will be eligible to the aforesaid bonus in proportion to period worked on production/maintenance jobs, subject to clause (4) above.

(7) (a) Bonus for the year 1959-60 for the workers on piece-rate or daily rate and in case of monthly rate, whose basic wage falls below Rs. 35 per month, shall be calculated at the basic wage rate of Rs. 35 per month. In respect of workers receiving consolidated wages, Rs. 35 shall be deemed as the basic wage per month.

(b) Bonus for the piece-rated workers for the years 1960-61 to 1963-64 shall be calculated at the rate of their guaranteed minimum basic wage in the respective year.

(8) The Union shall not take up or refer the matter of bonus, if any, of such workers who are not on the roll of the Company at the time of distribution of bonus.

(9) It is agreed and clearly understood that the workers and the Union shall not claim or be entitled to any bonus in any form whatsoever and by whatever name called except the bonus agreed to hereby in respect of the years covered by this agreement.

(10) The bonus will be payable as under:—

(a) For the accounting year 1959-60—15th April, 62.

(b) For the accounting year 1960-61—15th June, 62.

(c) For the accounting year 1961-62—In May, 1963.

(d) For the accounting year 1962-63—In December, 63.

(e) For the accounting year 1963-64—In December, 64.

(11) No wages shall be paid to the workers on strike for the strike period. However, as a gesture of goodwill, the management agree that there will be no break in the service of the workers who participated in the strike, and there will be no victimisation due to strike.

The workers on monthly pay roll will, however, be given amount equal to the wages of the strike period in round figure as an advance and the said amount shall be deducted and recovered from such workers in three equal monthly instalments commencing from the wages of February, 1962.

(12) Both the parties agree that the major reason for non-availability of surplus for distribution as bonus is low price of cement given to the Company, and therefore, it is agreed that the workers shall also make all efforts for the Company to be given fair price by the Government of its cement.

(13) The Union hold forth the assurance that on the part of workers no effort should be spared to raise and maintain production to its full installed capacity.

(14) The workmen hereby agree to maintain industrial harmony and peace during the aforesaid period of four years, i.e. till the end of 1965 and hereby under take that during the aforesaid period shall not take recourse to any strike, in any form whatsoever, nor shall they resort to go slow tactics nor shall cause any stoppage of work in any form whatsoever.

(15) This Agreement shall be applicable both to the Factory at Sawaimadhopur and its Quarries at Phalodi.

(16) The Company and the Union shall not be prejudiced by this Agreement in taking whatever stand they think fit before the Bonus Commission, and in particular this Agreement shall not be relied upon or referred to by either party in support of its case thereat, whatever it may be.

(17) Both the parties agree that the management shall recover the amount paid to the workers in terms of clause 1 of the Memorandum of Settlement dated 21st November, 1959 between the parties, in the following manner:—

- (i) The first yearly instalment shall be recovered from the bonus which might accrue to the workers for the year 1964-65 instead of the bonus for the year 1960-61 as stipulated in the Memorandum of Settlement dated 21st November, 1959.
- (ii) The second and third yearly instalment shall be recovered from the bonus which might accrue to workers for the years 1965-66 and 1966-67 respectively instead of from the bonus for the years 1961-62 and 1962-63 respectively as stipulated in the said settlement.

In witness whereof this Memorandum of Settlement is signed by the parties at Sawaimadhopur on the 4th day of February, 1962.

Representative of the Workmen

(1) Sd :—R. C. DIXIT,
General Secretary

(2) Sd : KEDAR SINGH,
President

Witnesses

1. Sd : S. K. GUPTA

2. Sd : VED PARKASH

Representative of Management

Sd : R. N. CHATURVEDI,
Works Manager

Sd : NEMICHAND JAIN,

Labour & Conciliation Officer
Ajmer Divn. (Excl. Ajmer
Distt.)

Jaipur Camp Sawaimadhopur

[No. 22/3/62-LRII]

S.O. 710.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers and relation to Messrs Ballarpur Collieries Company and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY.

Reference No. CGIT-6 of 1961

Parties :—

Messrs. Ballarpur Collieries Company

AND

their workmen.

PRESENT

Shri Salim M. Merchant, Presiding Officer.

Bombay : Dated 23rd February 1962

APPEARANCES

For the employers :—Shri C. N. Nagle, Advocate, Shri S. V. Kanade, Personnel Officer and Shri P. D. Chaudhari, Manager, Ballarpur Colliery.

*For the workmen :—*Shri S. W. Dhabe, Advocate and General Secretary, Nagpur Pradesh I.N.T.U.C., Shri K. Krishna Rao, Vice-President, Ghugus Khadan Mazdoor Sangh and General Secretary, Sasti Colliery Workers' Union, Shri R. A. Dhabeekar, Joint Secretary, Ballarpur Colliery Mazdoor Seva Mandal.

STATE:—Maharashtra

INDUSTRY:—Coal.

AWARD

The Central Government by the Ministry of Labour and Employment's Order No. 1/32/60-LRII, dated 29th March 1961, made in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, was pleased to refer the industrial dispute between the parties above named in respect of the subject matters specified in the following schedule to me for adjudication.

SCHEDULE

"Whether the coal cutters, coal cutting machine drivers and coal cutting machine mazdoors are entitled to receive dearness allowance in accordance with the arbitration award dated 30th December 1959 of Shri A. Das Gupta in respect of colliery disputes. If so, with effect from which date."

2. After the parties had filed their written statements, at the adjourned hearing of this dispute before me at Bombay on 22nd February 1962, after some discussion, the parties filed a joint application in which the management stated that it has since 1956 been paying dearness allowance to its employees concerned in this reference viz., coal cutters, coal cutting machine drivers and coal cutting machine mazdoors in its Ballarpur, East and Ghugus Collieries, in accordance with the principles laid down in the Arbitration Award dated 30th December 1959 of Shri A. Das Gupta in respect of issue No. 1 before him relating to dearness allowance. It was further stated on behalf of the Ballarpur Collieries Company that the company had no desire at present to change the present system of payment of dearness allowance to the workers under reference. In view of this, both parties prayed that the reference be disposed of in terms stated above. This joint application has been signed on behalf of the Ballarpur Collieries Co., by Shri C. N. Nagle, Advocate, Shri S. V. Kanade, Personnel Officer, and Shri P. D. Chaudhari, Manager of the Ballarpur Colliery and on behalf of the workmen by Shri K. Krishna Rao, Vice-President Ghugus Khadan Mazdoor Sangh and General Secretary, Sasti Colliery Workers' Union and Shri R. A. Dhabeekar, Joint Secretary, Ballarpur Colliery Mazdoor Seva Mandal. A copy of the said joint application of the parties is annexed hereto and marked annexure 'A'. As the statements made in the application cover the subject matters of the reference, I accept the terms recorded by the parties and the reference is disposed of in terms of annexure 'A', which shall form part of this award.

3. The only question that remains to be considered is the question regarding costs. By an order dated 29th August 1961 I had directed the company to pay Rs. 200/- as costs to the unions for the adjournment granted on the management's application and the management has agreed to pay that amount to Shri K. Krishna Rao within a week of the publication of this award, and I direct accordingly. I also feel that an order for costs in respect of this dispute of Rs. 100/- each in favour of Shri K. Krishna Rao, Vice-President, Ghugus Khadan Mazdoor Sangh and General Secretary, Sasti Colliery Workers' Union and Shri R. A. Dhabeekar, Joint Secretary, Ballarpur Colliery Mazdoor Seva Mandal, would be justified, and I direct the company to pay the said costs to them within a week of the publication of this award.

(Sd.) SALIM M. MERCHANT,

Presiding Officer,

Central Government Industrial Tribunal, Bombay.

ANNEXURE 'A'

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

Reference No. CGIT-6 of 1961

In the matter of Messrs. Ballarpur Collieries Co.

AND

their workmen.

May it please the Honourable Tribunal,

Both the parties to the reference beg to submit as under.

The Ballarpur Collieries Co. contends that the Arbitration Award dated 30th December 1959, given by Shri A. Das Gupta is not legally binding on the Ballarpur Collieries Co.

Without prejudice to the above contention the said Collieries Co. submits that it has since 1956 been paying dearness allowance to its employees namely coal cutters, coal cutting machine drivers and coal cutting machine mazdoors in its Ballarpur, Sasti and Ghugus Collieries under present Reference CGIT-6 of 1961 in accordance with the principles laid down in the Arbitration Award dated 30th December 1959 of Shri A. Das Gupta in respect of issue No. 1 i.e. dearness allowance.

The Collieries Company has no desire at present to change the present system of payment of dearness allowance to the workers under reference.

In view of the above both the parties to the reference pray that the reference be disposed of accordingly.

BOMBAY,

22nd February 1962.

(Sd.) Illegible.

For and on behalf of the employers.

(1) K. KRISHNA RAO,

(2) Sd. Illegible.

(Sd.) Illegible.

For and on behalf of workmen.

Before me,

SALIM M. MERCHANT,

Presiding Officer,

[1/32/60-LRII.]

S.O. 711.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under Section 33A of the said Act from Shri H. D. Mitra, Overseer, Tata Iron & Steel Co. Ltd.'s Colliery at Jamadoba.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

Application No. 111 of 1960 arising out of Ref. Nos. 27, 34, 40 and 49 of 1960.

Shri H. D. Mitra, Overseer,
Jamadoba.

Applicant
Complainant.

versus

Chief Mining Engineer,

M/S Tata Iron & Steel Co. Ltd.,
Jamadoba, P. O. Jealgora, Dhanbad.

Opposite Party.

In the matter of a complaint under section 33A of the Industrial Disputes Act, 1947.

PRESENT

Shri Salim M. Merchant, Presiding Officer.

APPEARANCES:—

For the applicant:—Shri P. Chanda, President, Tata Colliery Workers' Union with Shri H. D. Mitra, applicant.

For the opposite party:—Shri S. N. Singh, Welfare Officer, with Shri F. S. Watcha, Agent and Shri Lal Bihari Mehta, Clerk.

STATE:—Bihar.

INDUSTRY:—Coal.

Camp: Bombay dated 24th February 1962.

AWARD

This complaint, purporting to be under section 33A of the Industrial Disputes Act, 1947, is directed against the applicant's dismissal from service with effect from 24th December 1960 by the opposite party's notice dated 17th December 1960. It is admitted that the applicant Shri H. D. Mitra was an employee of the Tata Iron & Steel Co. Ltd's colliery at Jamadoba and that he is a workman concerned in one or the other of the four industrial disputes mentioned in the application which are pending before this Tribunal. His complaint is that his dismissal was illegal because it was in contravention of the provisions of section 33 of the Industrial Disputes Act and that his dismissal on the charge of negligence in duty as an overseer was not justified on the merits.

2. The opposite party has raised a preliminary objection against the maintainability of this complaint. It contends that this application is not maintainable as there has not been any violation of section 33 by it, inasmuch as it had on 23rd December 1960 filed an application before this Tribunal under section 33(2) (b) of the Industrial Disputes Act, 1947, for its approval of its action in dismissing the complainant. That application is numbered 43 of 1960 and was heard along with this complaint. Shri P. Chanda representing the complainant, who is the opposite party in Application No. 43 of 1960, has contended that the said application of the company is not maintainable because the management had not fulfilled one of the conditions precedent to the maintainability of the application under section 33(2) (b), namely the company had not paid to the applicant herein, one month's wages before dismissing him from service. The company has contended that it had offered one month's wages to the applicant by its notice dated 17th December 1960 but according to Shri P. Chanda the mere offer of one month's wages was not compliance of the condition precedent to dismissal of payment of one month's wages prescribed by section 33(2)(b) and he has in support relied upon the judgment of the Division Bench of the High Court of Bombay (Their Lordships Chinnai C. J. and V. S. Desai J) in the case of the Premier Automobiles Ltd., vs. R. B. Polkam (1960 1 LLJ p. 443) and the Awards of the Industrial Tribunal, Bombay (Shri P. D. Sawarkar) in the case of Garment Cleaning Works and Babulal Shamal and others (1960 II LLJ p. 612) and the award of the late Shri G. Palit dated 25th August 1960 in application No. 4 of 1960 in Ref. No. 60 of 1960 Ramji Singh vs. Digwadi Colliery. I have also following the judgment of the High Court of Bombay in the Premier Automobile Ltd's case, upheld a similar objection in other applications under section 33(2)(b) decided by me. I have, therefore, by a separate order of even date made in Application No. 43 of 1960 held that that application is not maintainable. In the result I reject the company's preliminary objection against the maintainability of this complaint and hold that the company has contravened the provisions of section 33 in dismissing Shri H. D. Mitra from its service and this complaint is, therefore, maintainable.

3. It is now well settled law that a complainant under section 33A is not entitled to obtain an order for reinstatement merely by proving contravention of section 33 by the employer but that the complaint must be adjudicated upon by the Tribunal on the merits, as if it were an industrial dispute referred to it. As observed by their Lordships of the Supreme Court in the case of Punjab National Bank vs. their workmen (1959 II LLJ p. 666).

"There could be no doubt that in an enquiry under section 33A the employee would not succeed in obtaining an order of reinstatement merely by proving contravention of section 33 by the employer. After such contravention is proved it would still be open to the employer to justify the impugned dismissal on the merits. That is a part of the dispute which the Tribunal has to consider because the complaint made by the employee is treated as an industrial dispute and all the relevant aspects of the dispute fall to be considered under section 33A. It would not be contended that the enquiry under section 33A is confined only to the determination of the question as to whether the alleged contravention by the employer of provisions of section 33 has been proved or not."

The same proposition had been laid down in the earlier judgments of the Supreme Court in the cases of Automobile Products of India Ltd. vs. Rukmaji Bala and others (1955 1 LLJ p. 346) and Equitable Coal Co. Ltd. v. Algu Singh and another (1958 1 LLJ p. 793).

4. I, therefore, proceed to consider the second question whether the order passed by the employer against the applicant is justified on the merits.

5. It is admitted that the complainant Shri H. D. Mitra who is a retired P.W.D. overseer was employed as an overseer under the Chief Engineer, Tata's Collieries (for brevity's sake referred to as C.E.T.C.). It is further admitted that extensive work of renovation and repairs to the "dhowaras" (quarters of miners) in the collieries of the Tatas was being carried out through contractors under the control of the Chief Welfare Officer of the Tata Collieries and that Shri Mitra was also asked to supervise that work as an overseer and it is admitted that he did do that work. It is the management's case that on re-checking the repaired and renovation work done by contractor Shri H. K. Roy Choudhury it was found that the bills made by Mitra on the basis of the measurements taken by him contained serious discrepancies and that he had also prepared bills for jobs which were not carried out by the contractor. It is also the company's charge against Shri Mitra that he had shown utter negligence in drawing up the bills.

6. For these misconducts, a charge-sheet No. 50 dated 1st October 1960 was served upon Shri Mitra. The charge sheet mentioned six (a to f) main items of discrepancies which were noticed in the bills made by him on the basis of the measurements taken by him, resulting in excess payment to the contractor than what he (the contractor) was actually entitled to. Mitra was, therefore asked to show cause within 48 hours why action should not be taken against him for negligence of duty under clause 19(6) of the company's standing order. The charge-sheet further stated that the representation which he would make would be taken into consideration before passing any order. Mitra replied to this charge-sheet on 7th October 1960 giving his explanation in respect of each item. His contention was that the work that was done was not being supervised by him, and that he was asked, "to prepare the bills on the strength of the guidance of the contractor's own representative after a long time"; and that the bills were also checked on the spot by the senior draftsmen under instructions from the Chief Welfare Officer and that the Colliery Welfare Officer had certified each bill made by him. He urged that during his two and a half years' service he had not once been charged with negligence in his work and therefore the charge of habitual negligence or neglect of work under standing order 19(6) cannot be made against him nor could he be held to be negligent in work which was certified to be correct by competent officers. He, therefore, prayed that he be exonerated.

7. This explanation, however, was not considered satisfactory by the management which held a departmental enquiry on 28th and 29th October 1960. The enquiry was at the commencement held by Shri G. Prasad, Chief Personnel Officer of the colliery who recorded Shri Mitra's statement at the enquiry (annexure C-5 to the company's production) in which according to the management Shri Mitra made certain admissions upon which it relies. The enquiry was thereafter not continued by Shri G. Prasad but was later taken over by Shri F. S. Watcha the Deputy Chief Mining Engineer of the Tata Collieries, who, had earlier, on 28th October 1960 given evidence at this very enquiry when the same was conducted by Shri G. Prasad. On 28th October 1960 the management had also examined Shri S. P. Das, Head Clerk, Welfare Department and Shri Mitra was offered cross-examination of this witness and he cross-examined him. Shri Mitra at the enquiry appears to have expressed a desire to question the Chief Welfare Officer Shri K. R. Cursetji, and accordingly the Chief Welfare Officer appeared at the domestic enquiry on 29th November 1960 and Shri Mitra questioned him at some length. Thereafter, the enquiry was concluded and Shri Watcha made his report dated 4th December 1960 wherein, after briefly setting out the six items (a) to (f) of the charges which had been levelled against Shri Mitra and his reply thereto in respect of the same, he recorded the following conclusion:—

"As an overseer, Mr. Mitra is guilty of not acquainting himself with the type of work he had to supervise and not maintaining proper record and check of bills made and is proved guilty of the charge levelled against him.

I recommend for his dismissal."

8. Thereupon, the Chief Mining Engineer by his letter dated 17th December 1960 addressed to Shri H. D. Mitra intimated to him that as the misconduct with which he was charged had been established after a departmental enquiry he was dismissed from the company's service with effect from 24th December 1960, and he was further intimated that an application for approval of the action of the management had been filed before the Tribunal and he was asked to collect from the Manager, Jamadoba Colliery, one month's wages. He was also told that he

was not required to work from 18th December 1960 to 23rd December 1960, but would be paid his wages for those days.

9. The original of the record of the enquiry proceedings have been filed before me and I shall refer to it in detail a little later. At the hearing before me Shri Singh for the opposite party examined Shri F. S. Watcha, the Deputy Chief Mining Engineer (E.W. 1) and Shri Shiv Prasad Das, Head Clerk of the Chief Mining Engineer's office (E. W. 2), who also tendered certain other documents. The union examined Shri H. D. Mitra (WW-1) and relied upon two circulars issued by the Chief Mining Engineer relating to contractor's bills, (exhibits W-1 and W-2).

10. Before dealing with the submissions of the parties on the merits, I should like to deal with an objection urged by Shri Pratish Chanda regarding the validity of the domestic enquiry and the finding thereon of Shri F. S. Watcha. Shri Pratish Chanda has urged that the enquiry was vitiated because Shri Watcha had, at an earlier stage of the enquiry, appeared as a witness and had given evidence against Mitra and had at a later stage conducted the enquiry and that it was Shri Watcha who had made the report on the enquiry holding Shri Mitra guilty of the charges levelled against him. As a general proposition the argument that a departmental enquiry at which a witness for the employers in support of the charge had, at a later stage, acted as the enquiry officer should be held to be vitiated, as being in violation of the rules of natural justice, is no doubt a sound one and one which ordinarily would prevail. But I find from the record of the enquiry that after Shri Watcha had made his statement (exhibit E-5) before the Enquiry Officer, Shri G. Prasad, on 28th October 1960, Shri Mitra was asked to cross-examine Shri Watcha but he declined to cross-examine him. This is clearly recorded below Shri Watcha's statement and Shri Mitra has not denied the correctness of this. The report which Shri Watcha made is brief. After stating the various items of misconduct and Shri Mitra's explanation on them he held that, "as an overseer Mr. Mitra is guilty of not acquainting himself with the type of work he had to supervise and not maintaining proper record and check of bills made and is proved guilty of the charge levelled against him". However, Shri Watcha was also examined before me and Shri Pratish Chanda, the President of the Union availed himself of the opportunity of cross-examining him at length. Although it was unfortunate that Shri Watcha should have acted both as a witness and an Enquiry Officer in this enquiry. I am not inclined to attach much importance to this irregularity, because I am satisfied that from the admissions made by Shri Mitra in his written explanation to the charge-sheet as also from the statements which he made at the enquiry on 28th October 1960 before Shri G. Prasad, that the charge of negligence in duty could well be established.

10-A. I shall, therefore, now proceed to deal in detail with the six items (a) to (f) in respect of which there were discrepancies in the bills submitted by Shri Mitra on the basis of the measurements taken by him and which had resulted in excess payment to the contractor than what he was entitled to.

11 The first item in the charge, item (a), is with regard to Shri Mitra's failure to maintain any measurement book or any other papers to show the basis on which he had prepared the bills. Shri Mitra's explanation—both in his written explanation to the charge and in his statement at the enquiry—was that he had not been given instructions for the maintenance of any measurements book nor was any such book supplied to him. He stated that he used to keep notes on loose paper which it was not possible for him to submit after the lapse of such a long time. This explanation was found unsatisfactory considering that Shri Mitra was an old employee of the P.W.D. and measurement books containing printed sheets with specified columns are supplied to overseers who have to note the measurements in such a book. Shri Mitra has admitted that as an overseer in the C.E.T.C's office he was supplied such a measurement book. The story of Shri Mitra that he used to note down the measurements on loose pieces of paper in the absence of a measurement book having been supplied to him is hardly convincing when he could not produce even a single measurement slip. I think, therefore, that the management was justified in coming to the conclusion that Shri Mitra was guilty of negligence in not maintaining the measurements in a regular measurement book and in not preserving the slips on which he had entered the measurements of the work for which he had prepared the bill.

12. The next charge—item (b)(i) against Shri Mitra was that on rechecking the completed work it was revealed that he had shown measurements and prepared bills for jobs which were not carried out by the contractors and two instances of the same have been given (1) that bills had been made for brick soling, concreting and plastering the floor of the majority of rooms and verandahs

at 6 and 7 pits, whereas actually only plastering of the floor was done (Re: Quarters in Block No. AK, AJ, AX, AW, AY and others). Shri Mitra's explanation was that he had not been supervising the work when it was being done and hence he was unable to find out what work was actually done beneath the plastering of the floor; that the bills were prepared long after the work was completed; and that for purposes of preparing the bill, he was directed by the Chief Welfare Officer to accompany the contractor's man and to collect information from him; that no other man was asked to advise him nor was he directed to seek instructions from any one else; that these difficulties were then pointed out to the Chief Welfare Officer verbally, but he had to carry on as instructed by him and therefore he was not responsible for any discrepancies in this regard. But it is admitted by Shri Mitra that he had not even carried out a test check. It is not always necessary for the overseer to be present when the work is being carried out. No doubt repair and renovation work was being carried out in a number of dhowras in all the collieries of Tatas, but Shri Mitra's negligence appears to be that he prepared the bill without a test check which would have shown whether only plastering of the floor was done or brick soling and plastering of the floor had also been done. In his cross-examination at the hearing before me, Shri Mitra could not give any satisfactory explanation for this. He has sought to rely upon statements made by the Chief Welfare Officer but that would not save him from his responsibility of making test checks. It is clear from exhibits E-1 and E-2 that Shri Mitra had been making inspection reports about the renovation and repair work that was being carried out in the dhowras. Shri Mitra has generally sought to argue that as these bills had been passed by the Chief Welfare Officer's office and also by Shri Watcha, and more over payments had been made after the bills were checked and re-checked, it necessarily freed him from all responsibility. But that would be no answer to the charge of negligence in preparing the bills for items of work which were subsequently proved in fact not to have been done. Surely, it must be considered the duty of the overseer to at least hold a sample check before preparing the bills and the negligence of Shri Mitra has been that he did not hold any such test checks.

13. This also applies to item b(ii) of the charge-sheet which was that according to the specifications, leaves of doors and windows are to be made of murga wood but on rechecking it was revealed that in a majority of cases they had been made of cheaper woods *viz.*, Mango, Jamun, Siris, Asan and Sal. The explanation of Shri Mitra is that he was asked to prepare the bills after the work was finished and the doors had been painted and it was not possible thereafter to check the quality of the wood used. He has stated that the C.W.O. had instructed him to accompany the contractor after the work was finished and he had noted what the contractor's men had told him. In other words what Shri Mitra says is that he had prepared the bill with regard to the quality of the wood used on the basis of the information given to him by the contractor's man. Surely, an overseer's duty is to satisfy himself that what the contractor's man had stated was correct. It should have been possible for Mitra to determine whether the quality of the wood actually used, was the same as billed for, by scrapping off the paint on some of the door and windows and holding the normal check test. Shri Mitra's negligence lay in not holding such a check test. Therefore, what I have held with regard to charge b(1) applies equally to charge b(2) and I cannot say that the management was not justified in holding Shri Mitra guilty of that charge.

14. Item (c) of the charge sheet is that the outside and inside drains of dhowras at 6 and 7 pits had not been made according to specifications, but all the same they had been billed at the rates provided in the specifications. Shri Mitra's explanation to this was that the work of the drains was completed long before he was asked to prepare the bill and it was not possible for him then to see what was beneath the plaster; that he had no instructions to break down everything before making the bill; that if he was on the job when the work was being done he would have been in a position to verify the work with the specification and drawings provided he had been furnished with the same. Surely as an ex-overseer of the P.W.D. Shri Mitra must know that no work can be billed for without knowing what the specification was in respect thereof. Here also the employer's case is that if he had taken the trouble to make test checks, he would have been able to detect the defects in the drain work.

15. The next charge (d) is that lintels have been billed and paid for as per specifications. On checking it was found that bricks were put on horizontal rods and passed as lintels instead of the concrete lintels being made as per specification. The explanation given by Shri Mitra on this point as also his statement at the enquiry and in his evidence before me is not satisfactory nor convincing, and in my opinion the management was justified in holding that he had been negligent in respect of this item also.

16. Item (c) of the charge-sheet is that the number of doors billed had been found to be in excess of what was fixed and the particulars are given with reference to Block No. A1 and Block No. AA. It appears that in block No. A1 13 doors were billed for whereas on checking, 8 doors were found replaced and in block No. AA, 7 doors were billed for whereas on checking only 5 doors were found replaced. Shri Mitra in his explanation on this item stated that, "it is possible that through oversight or rush of work there may have been a mistake in counting. But I have also to state that after the bill was made, it was checked and re-checked at the site itself and the mistake was not detected even by those who had checked and rechecked the bill. As such these may be compared with abstract sheets which is in C.W.O's office. It cannot be wrong."

17. The first sentence of the explanation is an admission of negligence of duty. Surely, an overseer cannot but be held guilty of negligence if instead of for 8 doors he billed for 13 doors in one block and for 7 doors instead of for 5, in another block. The only inference that can be drawn from this is that there had been really no checking by Shri Mitra of the number of doors replaced in the two blocks. If on such admission the management finds that the overseer has been negligent in his duty of supervising the work, no Tribunal would be justified in interfering with such a finding.

18. The last item in the charge sheet is a minor one and it is that in the bills prepared by Shri Mitra and submitted by him to the C.W.O., although the total amount is written in figures, he had not written the amount in words. His explanation to this is that he had forgotten to mention the amount in words which virtually is an admission of negligence on this count.

19. Much was sought to be made by Shri Pratish Chanda of the fact that the bills had been passed by the C.W.O's office and finally by Shri Watcha, (E.W.1), after they had gone through his department. Shri Chanda has also sought to rely upon certain circulars issued by the Chief Mining Engineer with regard to contractors' bills and the procedure to be followed thereon (Ex. W.1 and Ex. W.2) and he has pointed out that these circulars were issued on 30th June and 14th July 1960 after the bills in question had been submitted. But there is no doubt that there was in existence what is known as the Colliery Procedure Code prescribing the procedure to be followed in submitting bills. I am not inclined to attach much importance to these circulars being of a date subsequent to the date on which Shri Mitra had prepared the bills, because, as I have shown, on the statements made by Shri Mitra in his explanation itself there is sufficient material on which the management could have held him guilty of negligence of duty.

20. Shri Chanda has next argued that what should have been established was habitual negligence or neglect of duty and that the evidence does not show that there was any habitual neglect or negligence of duty as he had not been warned or punished for the misconduct of negligence on any previous occasion. I am not impressed by this contention. It has to be remembered that an overseer is expected to exercise certain elementary check and supervision and in this case, from the evidence it is clear that Shri Mitra had not exercised the elementary care which is expected of an overseer. It has also to be remembered that the bills covered items of work extending over a period of time as the work of the contractors was continuous. It appears that Shri Mitra throughout the time he was put in charge as overseer of the work of renovation and repairs to dhowrahs of the collieries under the instructions of the C.W.O. had not shown sufficient care and attention and the charge of even habitual negligence in respect of his duties as overseer with regard to the work of repairing and renovating the dhowrahs would appear to be justified.

21. In the overall result, I hold that the charge of negligence against Shri H. D. Mitra was established after a fair enquiry and that his dismissal was justified on the merits.

22. The complaint, therefore, fails on merits and is dismissed.

No order as to costs.

Sd./- SALIM M. MERCHANT,

Presiding Officer,

Central Government Industrial Tribunal, Dhanbad.

[No. 1/87/59-LRII.]

ORDERS

New Delhi, the 2nd March 1962

S.O. 712.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Khas Joyrampur Colliery and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Khas Joyrampur Colliery, P.O. Khas Jeenagora, District Dhanbad, was justified in preventing Md. Yusuf Mian from attending his duties with effect from the 11th January, 1962? If not, what relief is he entitled to?

[No. 2/20/62-LRII.]

New Delhi, the 5th March 1962

S.O. 713.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Ramnagar Colliery and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the suspension of Sarvashree Khusu Gope, Jaganath Gope, Budhan Tanti, Gohan Tanti, Gohan Bilashpuri, loaders of Ramnagar Colliery, P.O. Pandabeswar, Dist. Burdwan by the management of the said colliery was justified, and, if not, to what relief are they entitled?

[No. 2/19/62-LRII.]

CORRIGENDUM

New Delhi, the 3rd March 1962

S.O. 714.—In the schedule to the order of the Government of India in the Ministry of Labour and Employment No. S.O. 118, dated the 3rd January, 1962, and published in the Gazette of India, Part II, Section 3(ii), dated the 13th January, 1962, for the figures and words "from 20th September, 1961" read the figures and words "from 20th July, 1961".

[No. 2/246/61-LRII.]

A. L. HANDA, Under Secy.

New Delhi, the 2nd March 1962

S.O. 715.—In the exercise of the powers conferred by sub-section (1) of Section 5 of the Mines Act, 1952 (35 of 1952), the Central Government hereby appoints Shri Nirmal Kumar Basak as an Inspector of Mines subordinate to the Chief Inspector and makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment S.O. No. 531 dated the 2nd March, 1961, namely:—

In the said notification, the following entry shall be added at the end, namely:—

"(61) Shri Nirmal Kumar Basak."

[No 8/30/60-MI.]

CORRIGENDUM*New Delhi, the 2nd March 1962*

S.O. 716.—In rule 2 of the mica Mines Labour Welfare Fund (Amendment) Rules, 1962, published with the Government of India in the Ministry of Labour and Employment Notification No. S.O. 279, dated the 17th January, 1962, published at pages 300-301 in Part II, Section 3, sub-section (ii) of the Gazette of India, dated the 27th January, 1962,—

for "sub-rule (1)"

read "sub-rule (2)"

[21(2)/61-MILL.]

A. P. VEERA RAGHAVAN, Under Secy.

New Delhi, the 3rd March 1962

S.O. 717.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Labour Court, Ahmedabad, in the matter of an application under section 33A of the said Act from Shri A. Gopalkrishna Prabhu, ex-employee of the Canara Industrial & Banking Syndicate Limited.

BEFORE SHRI D. M. VIN

Presiding Officer, Labour Court (Central), Ahmedabad.
Complaint No. 264 of 1961.

in

Reference No. 1 of 1960.

Shri S. Gopalkrishna Prabhu, C/o. The Canara Industrial & Banking Syndicate Employees' Union, Khandelwal Bhavan, 160, Dr. Dadabhai Nawroji Road, Fort, Bombay-1.—Complainant.

Versus

The Canara Industrial & Banking Syndicate Limited, Head Office, UDIPI. (S.K.).—Opponent.

SUBJECT.—A Complaint under Section 33-A of the Industrial Disputes Act, 1947.

APPEARANCES.—Shri K. K. Mundul for the complainant.

Shri G. S. Nagarkar for the Opponent.

AWARD

This is a complaint filed before the National Industrial Tribunal (Bank Disputes) under Section 33 A of the Industrial Disputes Act, 1947. It was transferred for disposal to this Court.

(2) It appears that on 23rd January, 1960 the complainant applied for a post in the opponent-Bank and by an appointment letter dated 22nd February, 1960, he was appointed as a temporary clerk to work for six months at Bijapur Branch. The letter also stated that the question of taking him into permanent service would depend upon his satisfactory performance at the Staff Training College. Thereafter by a letter dated 1st/2nd September 1960, his temporary appointment was extended for a period of three months with effect from 2nd September 1960 on the same terms and conditions as before. This appointment was again extended for a further period of two months. He was then informed by a letter dated 6th February 1961 that he would be relieved from the office on that day after office hours and he was free to join the Opponent-Bank's Staff Training College at Udipi for further training. He accordingly joined the College and completed the training course. He was then informed by a letter dated 8th April 1961 that he was appointed as a probationary clerk on the terms and conditions specified therein. He was also asked by that letter to join at Bangalore Chickpet Branch of the Opponent-Bank. The complainant duly joined on 19th April 1961. It then appears that as the complainant fell ill he applied for some leave and he was first granted extraordinary leave on loss of pay and allowance but on his representation, the leave was converted into sick leave on half pay in terms of

the Sastry Award. In the meanwhile he was also asked to furnish a secrecy bond. Thereafter, he was ill from 31st August 1961 and he applied for leave by his application dated 4th September 1961. But by the letter dated 25th September 1961 his services were dispensed with with immediate effect as per the Head Office letter dated 19th September 1961. By the said Head Office letter he was informed that as he was not found suitable for confirmation, his services were dispensed with with immediate effect. It is this action of discharge which is under dispute in the present case.

(3) The complainant's case was that prior to his joining the Staff Training College at Udipi, he had already become a permanent employee in terms of para 495 of the Sastry Award and so his appointment and posting as a probationer at Bangalore was only a colourable device to evade the provisions of the Sastry Award. Therefore, the termination of his service by giving him only one month's wages was bad and not in accordance with the provisions of the Sastry Award. It was also contended that there was no complaint regarding his work, nor any lacuna had been brought to his notice. Hence, according to him there was want of good faith in the alleged ground, "unfit for confirmation" and in the action taken against him. He further alleged that the action taken against him was during the pendency of proceedings before the National Industrial Tribunal (Bank Disputes) and as no permission or approval was obtained, it was in contravention of the provisions of Section 33 of the Industrial Disputes Act, 1947. So the present complaint was filed with a prayer that directions be issued to reinstate him without any break in service and with full back wages.

(4) The case of the Opponent Bank was that the complainant's service at its Bijapur Branch was of an essentially temporary nature and he had in no way become a permanent employee there. On the termination of that temporary service, he was given an option to join the Staff Training College at Udipi and he was informed that if his work and progress were found satisfactory he would be recommended for the post of a probationary clerk. On the completion of the course he was by a fresh appointment order dated 8th April, 1961 was appointed as a probationary clerk. He accepted this without any demur. It was then alleged that the complainant's work and progress, both at the Staff Training College and during the probationary period, were not satisfactory and did not improve inspite of repeated chances and opportunities being given to him. So it was found that he was not suitable for confirmation and hence he was discharged. It was contended that he neither became nor was he made a permanent employee and that the termination of his service was in accordance with the terms laid down in the Sastry Award. It was further contended that none of the provisions of Section 33 of the Industrial Disputes Act, 1947, was contravened while taking the action and that this complaint should be dismissed.

(5) Looking to the contentions of the parties, the first point that arises for determination is whether the complainant was a permanent employee at the time of the termination of his service. Under the Sastry Award the bank employees were classified as (a) permanent employees, (b) probationers, (c) temporary employees and (d) part-time employees. These expressions were defined in para 508, the relevant portion of which is as follows:—

- “(a) ‘permanent employee’ means an employee who has been appointed as such by the bank.
- (b) ‘probationer’ means an employee who is provisionally employed to fill a permanent vacancy or post and has not been made permanent or confirmed in service.
- (c) ‘temporary employee’ means an employee who has been appointed for a limited period for work which is of an essentially temporary nature or who is employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature.

Admittedly, the complainant had not been appointed as a permanent employee by the opponent Bank, but it was contended that even though the appointment letter dated 22nd February 1960, stated that he was appointed as a temporary clerk for six months, the appointment was in fact as a probationer and after the expiry of the probationary period he should be deemed to have been confirmed as a permanent employee as provided for in para 495 of the Sastry Award. The relevant portion of the para 495 is as follows:—

“We respectfully agree with the said direction and direct that ordinarily the period of probation should not exceed 6 months. However, in case of persons whose work is not found to be quite satisfactory

during the said period but who are likely to improve and give satisfaction if a further opportunity is given to them, the period may be extended by three months provided due notice in writing is given to them and their consent in writing is obtained before the extension of their period of probation. In all other cases probationers after the expiry of the period of six months should be deemed to have been confirmed, unless their services are dispensed with on or before the expiry of the period of probation.

Obviously, these provisions would apply only if the complainant's appointment by the letter dated 22nd February 1960 was as a probationer. The letter has been produced as Ex. 7 in the case. It clearly mentioned that he was appointed "as a temporary clerk to work for six months" at the Bijapur Branch. This appointment seems to have been made in response to his application dated 23rd January 1960, which is produced as Ex. 25. The endorsement on it, also shows that he was appointed as a temporary clerk in view of a vacancy. The period of six months was extended by three months on the same terms and conditions as before by the letter dated September 1/2 1960, which is produced as Ex. 8. It also specifically mentioned that the complainant's "temporary appointment" was extended. The term was again extended by two months by the letter dated 15th December 1960, a copy of which was produced as M. 1. annexed with the written statement and that also mentioned that his "temporary appointment" was extended. This appointment was terminated by the letter dated 4th February 1961, which also very specifically mentioned that his "temporary appointment" would cease with immediate effect and he would be relieved forthwith. There is nothing to show that during the complainant's service at the Bijapur Branch he was ever treated as, or he ever claimed to be, a probationer.

(6) The complainant then joined the Staff Training College in response to the Principal's letter dated 27th January 1961, Ex. 12. Of course the letter dated 4th February 1961, terminating his temporary appointment with immediate effect, did state that he might join the training course at the Staff Training College; but it would be important to note that its language so far as it concerns the joining of the training course is suggestive of an option rather than a direction. Admittedly, during the training at the College, the complainant did not get any stipend. It seems that during the training period, the complainant applied again to the opponent Bank for a position in the Bank. The application is produced as Ex. 26. After this application, the complainant was given an appointment order, dated 8th April, 1961, which specifically stated that he was appointed as a "probationary clerk" on the terms and conditions mentioned therein. So there is nothing even in the correspondence after his joining the training course to suggest that he must have been appointed as a probationer by the letter dated 22nd February 1960.

(7) However, Shri Mundul, on behalf of the complainant, argued that the stipulation in the appointment letter dated 22nd February 1960 that he would be considered for induction into the permanent employment on his satisfactory performance at the Staff Training College would signify that the appointment was as a probationer. In this behalf, he relied on the following para contained in the said letter.

"After the above period, you will be put in our Staff Training College, Udipi for six weeks intensive training. During this period no stipend etc. will be paid. The question of taking you into our permanent service will entirely depend upon the satisfactory performance that you will put in at the Staff Training College."

This according to Shri Mundul would signify that there was continuity in service and the complainant's appointment was in fact as a probationer. I do not think that Shri Mundul's argument can be accepted. The above para would not necessarily signify that the complainant was being appointed as a probationer. It only gives an indication about his future prospects in the Bank. If the appointment was in reality as a probationer, atleast some stipend would have been given during the training period. As considered above, all the letters and orders issued subsequent to this letter, clearly show that the opponent Bank meant to appoint the complainant as a temporary employee and not as a probationer. At the time of the appointment in February 1960, the opponent Bank could not have been actuated by any *malu fide* motive to wrongly describe the complainant's appointment. There is nothing to show that till the time of his discharge, the complainant ever claimed that he was appointed as a probationer prior to his completion of the training course in the Staff Training College. So the appointment letter, dated 22nd February 1960, cannot be interpreted to mean that the complainant was employed as a probationer.

(8) Of course, immediately after the termination of the temporary service, the complainant joined the Staff Training College and on completion of the training course, he joined at the Chickpet Branch of the opponent Bank; but his service subsequent to the training course cannot be joined with his service as a temporary clerk. As observed above, his temporary service was terminated. He joined the training course without any stipend. He made a fresh application for appointment and a fresh appointment order as a probationer was issued. So clearly his service in the Staff Training College after the appointment order, dated 8th April, 1961, was a fresh appointment. His appointment was clearly as a probationer and at the time of the termination of his service, he had not completed the probationary period of six months. Hence, at the time of the termination of his service, he was not a permanent employee as defined under the Sastry Award.

(9) Under para. 522(2) of the Sastry Award the service of a probationer may be terminated by one month's notice or on payment of a month's pay and allowances in lieu thereof. Admittedly, these requirements were complied with and so the termination of the complainant's service cannot be held to be in contravention of the terms prescribed under para 522(2) of the Sastry Award.

(10) The termination of the complainant's service was then challenged on the grounds that it was a penal action taken against him and that the mandatory procedure prescribed under para 521 of the Sastry Award was not followed. It was also urged that he was never informed of any defect in his work or conduct and the action taken against him was *mala fide*. Now, the provisions of para 521, would apply only if the action taken against the complainant was a disciplinary or penal one. The reason given for dispensing with his services was "not found suitable for confirmation." At the time of hearing, the opponent-Bank produced at Ex. 22 the answer-paper given by the complainant at the time of his examination in the Staff Training College. It also produced the complainant's merit rating form at Ex. 23. These documents do not speak very favourably for the complainant. The copy of the letter, dated 23rd August 1961 from the Dy. Chief Officer to the Manager, Chickpet Branch, Bangalore, shows that specific instances of his mistakes were called for. Information in this behalf was furnished by the confidential report, dated 30th August 1961, a copy of which was produced as annexure M.8 with the written statement. So it does appear that there were materials before the management of the opponent-Bank to reasonably base its conclusion holding the complainant not suitable for confirmation. It is true that no show-cause notice was issued against him before arriving at this conclusion; but that, in my opinion was not necessary. Firstly, the action taken against him, does not seem to have been intended to be a disciplinary or penal one. Secondly, it is held by the Supreme Court of India in *States of Bihar V/s. Gopi Kishore Prasad*, reported in 1960 L.L.J. (Vol. I) at page 577, that the termination of employment of a person holding a post on probation without any inquiry whatsoever cannot be said to deprive him of any right to a post and is therefore no punishment. The termination of the service, in the manner in which it was done in the present case does not put any stigma, nor would it affect his future career, and I do not think that it was necessary to follow the procedure prescribed under para 521 of the Sastry Award. So the failure to follow the said procedure would not in any way amount to contravention of the terms of the Sastry Award. Of course it was alleged that the termination of the service was *mala fide*; but no grounds in support of that contention were urged, nor was it even alleged as to how the opponent-Bank should have acted *mala fide* against the complainant. On the evidence it seems to me that the action of the opponent-Bank in terminating the service of the complainant was not *mala fide*. Hence even on this ground the complainant cannot succeed.

(11) It was then contended that even the cases of simple termination of service are covered within the ambit of clauses (b) of Section 33 of the Industrial Disputes Act, 1947, and so a permission or approval, as the case may be, would be necessary. In this behalf reliance was placed on the ruling of the High Court of Bombay in *National Machinery Manufacturers Ltd. V/s. P. D. Vyas* and another, reported in 1961 L.L.J. (Vol. 2) at page 274. No doubt it appears to be holding that even the cases of simple discharge are covered within the ambit of clauses (b) of Section 33; but on reading it closely, it clearly appears that what is really held is that if an action had originated from a misconduct, it would be covered within the scope of clauses (b) of Section 23, irrespective of the fact whether that action is in the nature of dismissal or discharge by way of punishment or discharge simpliciter. The ruling in my opinion does not lay down that whatever may be the action taken by an employer pending a dispute, it would be covered within the scope of clauses (b) of Section 33. I think that it does not lay down that an action, which may be of discharge pure and simple,

e.g. on the ground of valid retrenchment, or of some disability due to accident or sickness etc. would be covered within the scope of clauses (b) of Section 33. In the present case, as held above, the action, taken against the complainant, was only of simple termination of service and it had in no way originated from a misconduct. It cannot be covered within the scope of any of the clauses of Section 33, and no permission or approval was necessary. It must therefore be held that there was no violation of the provisions of Section 33 and the present complaint under Section 33A would not lie.

(12) In the result, it is held that this complaint should be dismissed. There would be no orders as to costs. It is directed that this Award be submitted to the Central Government.

AHMEDABAD,

The 21st February, 1962.

(Sd.) Illegible,
Presiding Officer,
Labour Court (Central).

[No. 55(46)/61-LRIV.]

G. JAGANATHAN, Under Secy.

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 1st March 1962

S.O. 718.—In exercise of the powers conferred by Rule 4 of the Life Insurance Corporation Rules, 1956, the Central Government hereby accepts the resignation of Shri P. C. Bhattacharyya from the membership of the Life Insurance Corporation of India, Bombay, with effect from the 1st March, 1962.

[No. 1(7)-INS(II)/60.]

P. GANGULEE Dy. Secy.

